



WEB COPY



CRP (NPD) No.2649 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.2649 of 2021

and

CMP No.19578 of 2021

M/s.Sri Vignesh Traders,
Rep. by its Proprietor,
K.Ravikumar
S/o. Kesavan Nair,
122 (Shop No.3),
Dr. Nanjappa Road,
Coimbatore - 641 018.

... Petitioner

Vs

The Coimbatore City Cooperative
Bank Ltd., K5496 rep. by its
Managing Director/ Deputy Registrar,
119, Dr.Nanjappa Road,
Coimbatore - 641 018.

... Respondent

Prayer: The Civil Revision Petition filed under Article 227 of the Constitution of India to direct the learned Principal District Munsif, Coimbatore to number Unnumbered EA CFR No.18624 of 2021 in E.P. No.158 of 2019 in RCOP No.87 of 2016.



WEB COPY



CRP (NPD) No.2649 of 2021

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.L.P.Shanmugasundaram

ORDER

The challenge in this Revision is to an order rejecting the application filed under Section 47 which is a brazen attempt by the unscrupulous tenant for award of eviction.

2. The petitioner is a tenant under the respondent occupying a non-residential premises. The respondent took proceedings under Tamilnadu Building (Lease and Control) Act, 1960 seeking eviction of the petitioner. The matter was referred to the Lok Adalat. Before the Lok Adalat, the petitioner agreed to vacate and surrender possession by 30.04.2019. The award came to be passed on 09.09.2017. The petitioner had bargained time and obtained the benefit of time granted in the Lok Adalat. Since the petitioner did not vacate as agreed to, an execution petition in E.P. No.158 of 2019 was filed by the landlord.



3. The petitioner resisted the said execution petition claiming that the compromise order itself was obtained by misleading him and therefore the order cannot be executed. The Executing Court rejected the same and ordered delivery. The said order of delivery, dated 03.09.2021 was challenged by the petitioner in C.R.P No.2122 of 2021. This Court rejected the claim of the petitioner and dismissed the C.R.P. After the dismissal of the C.R.P, the petitioner had sought to file the application under Section 47 of the Code of Civil Procedure claiming that the decree is in-executable.

4. The Executing Court returned the application. It is, the return that is challenged. It is clear to my mind that the very application filed under Section 47 is an abuse of process of Court. The petitioner who had agreed to vacate and taken advantage of the proceedings before the Lok Adalat, cannot now turn around and say that the proceedings are invalid. The petitioner seeks to raise various new pleas in the application which are beyond the scope of Section 47 itself. I find that the very filing of the application under Section 47 amounts to clear abuse of process of Court, more so, when the Hon'ble Supreme Court has pointed out that the power of



CRP (NPD) No.2649 of 2021

the Executing Court to refuse execution under Section 47 of the Code of Civil Procedure lies in a microscopic hole and the same cannot be invoked in all circumstances.

5. I do not think the revision could be entertained. The Revision therefore fails and it is accordingly dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

01.12.2021

ab/vum

Index: Yes/No

Speaking order / Non speaking order

To:

1. The Principal District Munsif,
Coimbatore
2. The Section Officer,
VR Section,
Madras High Court, Chennai.



WEB COPY



CRP (NPD) No.2649 of 2021

R.SUBRAMANIAN, J.

ab/vum

CRP (NPD) No.2649 of 2021
and
CMP No.19578 of 2021

01.12.2021