

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(NPD) No.3840 of 2018
and C.M.P.No.21401 of 2018

Thandayuthapani Chettiyar ... Petitioner

Vs

K.Arumugam ... Respondent

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the fair order and decretal order dated 24.08.2018 made in R.E.P.No.23 of 2014 in R.C.O.P.No.1 of 1998 on the file of the District Munsif Court, Rasipuram.

For Petitioner : Mr.S.Mukunth
for M/s.Saravabhauman Associates

For Respondent : Mr.T.R.Rajaraman
for Mrs.P.Veena Suresh

ORDER

This Civil Revision Petition is filed against the Fair order and Decretal order dated 24.08.2018 made in R.E.P.No.23 of 2014 in R.C.O.P.No.1 of 1998 on the file of the District Munsif Court, Rasipuram, thereby allowed the petition for delivery of possession.

2. The petitioner is the tenant and the respondent is the landlord in the main Rent Control Original Petition. The respondent filed the petition in R.C.O.P.No.1 of 1998 for eviction and the same was allowed. Aggrieved by the same, the petitioner / tenant preferred an appeal in R.C.A.No.6 of 2003 and the same was withdrawn for the reason that the petitioner vacated the premises and handed over the possession to one Mr.Rajendiran, who is the subsequent purchaser of the petition premises.

3. The learned counsel for the respondent / landlord would submit that in respect of the petition premises, the respondent and others filed a suit for declaration and delivery of possession as against the family members and also for declaration in respect of certain items. The said suit was

decreed in favour of the landlord and on the strength of the decree, the landlord filed a petition for eviction on the ground of willful default and the same was allowed and confirmed by the learned Rent Control Appellate Authority.

4. Now, the tenant has taken a stand that already the possession of the petition premises was handed over to the said Mr.Rajendiran, who is alleged to have purchased the petition premises from one of the sons of the executor of the Will. Though he filed a memo stating that he vacated the petition premises before the learned Rent Control Appellate Authority, he played game with the said Mr.Rajendiran who has allegedly purchased the petition premises and he is still in possession and enjoyment of the property without even paying rent from the year 1997 onwards. Therefore, the Court below rightly allowed the petition and he prayed for dismissal of the Civil Revision Petition.

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5. The learned counsel for the petitioner / tenant would submit that as against the decree dated 20.12.2013 passed in O.S.No.112 of 2008 on the file of the Sub Court, Rasipuram, one of the parties filed appeal suit in

A.S.No.19 of 2014 is pending on the file of the Principal District Judge, Namakkal. Therefore, the ownership itself is not declared in respect of petition premises in favour of the landlord. However, the entire possession of the petition premises was already handed over to the said Mr.Rajendiran, who is the purchaser of the petition premises.

6. The Court below concluded that the tenant failed to produce any substantial piece of evidence to show that he handed over the possession of petition premises to the said Mr.Rajendiran. That apart, the alleged handing over the possession of the petition premises had taken place during the pendency of the R.C.O.P.No.1 of 1998 and any such transfer will not bind the petitioner and the subsequent purchaser of the petition premises is bound by the decree.

7. Therefore, the Court below ordered for delivery of possession in respect of petition premises on or before 24.09.2018 and this Court finds no infirmity or illegality in the order passed by the Court below.

8. The petitioner / tenant is directed to handover the possession of the petition premises to the respondent / landlord forthwith.

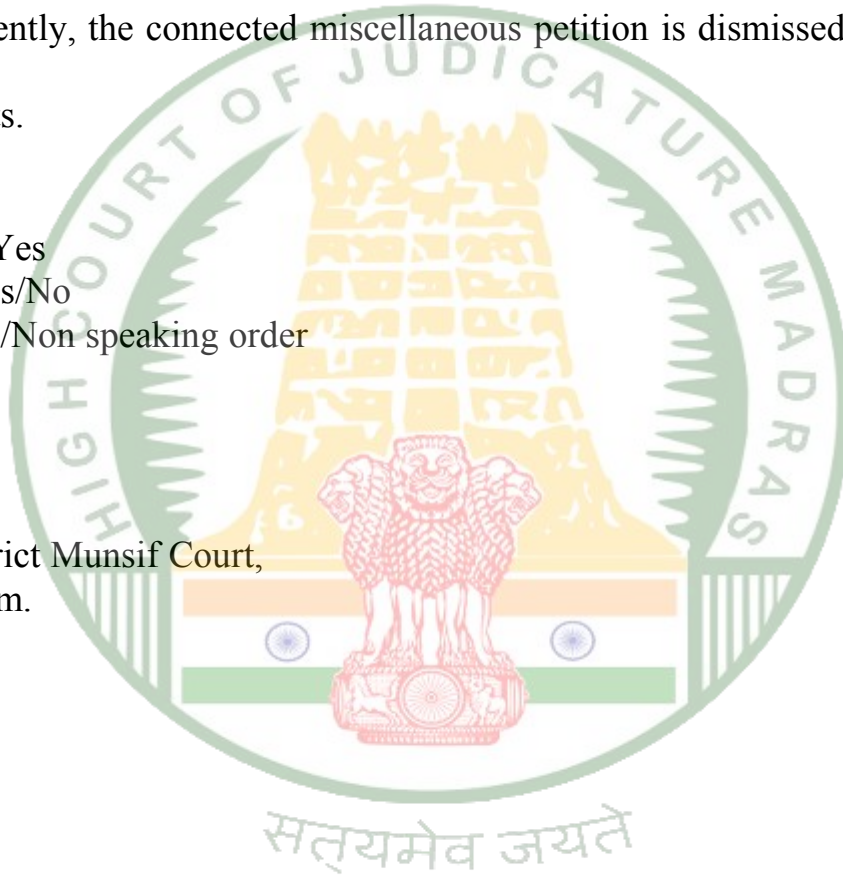
9. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is dismissed. No order as to costs.

12.07.2021

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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To

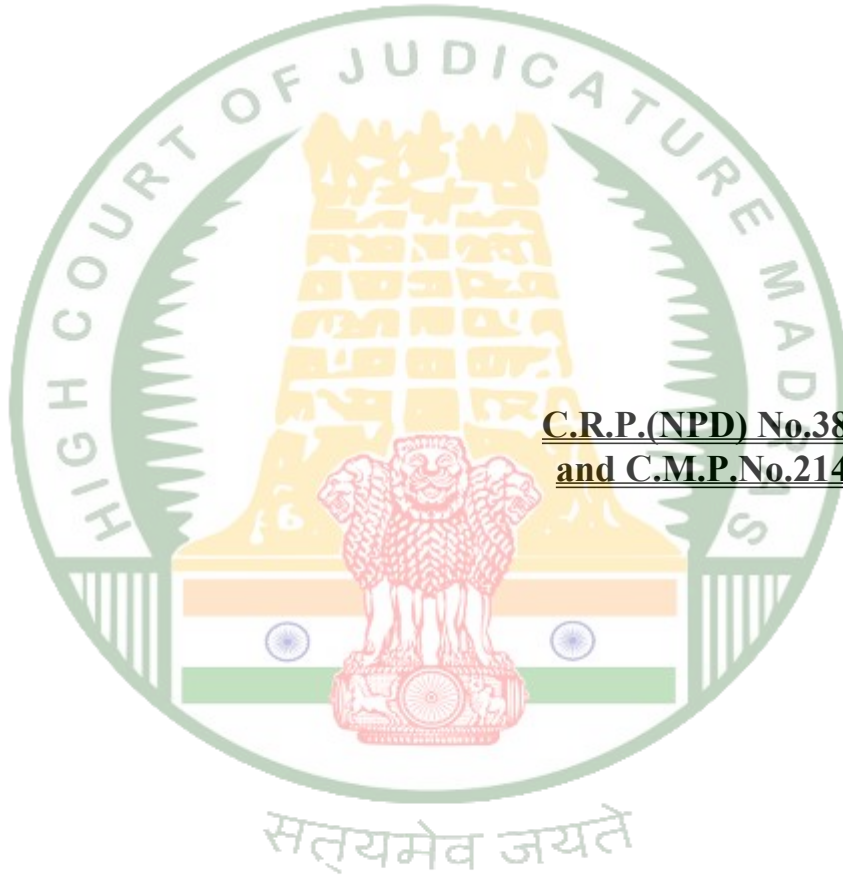
The District Munsif Court,
Rasipuram.



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G.K.ILANTHIRAIYAN. J,

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