



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.No.4251 of 2018

and

C.M.P.No.23321 of 2018

K.Jothimani

...Petitioner

Vs.

1.K.Jayalakshmi

2.Krishnan

3.Karthick

...Respondents

PRAYER: Civil Revision Petition under Article 227 of the Constitution of India to set aside the Fair and Final Order dated 23.07.2018 passed by the III Additional District Munsif, Coimbatore in I.A.No.490 of 2016 in O.S.No.1284 of 2013.

For Petitioner : Mr.L.Mouli

For Respondents : No appearance

ORDER

This Civil Revision Petition is directed against the order passed by the III Additional District Munsif, Coimbatore in I.A.No.490 of 2016 in O.S.No.1284 of 2013.

2.The brief facts of the case are that the petitioner instituted the suit in O.S.No.1284 of 2013 seeking permanent injunction. It is the case of the petitioner that he was inducted as a tenant in the suit premises on 05.08.1997 and apprehending forcible eviction, he filed the suit for permanent injunction and also sought for interim injunction in I.A.No.1247 of 2013. Though the learned Judge granted interim injunction on 16.04.2013 and the same was communicated to the respondents on 17.04.2013, he was forcibly evicted at 22.00 hours on 18.04.2013. It is his further case that when the respondents took possession, they also committed theft of jewels and other articles, hence, he lodged a complaint with the Thudiyalur Police and the same was registered in Crime No.370 of 2013 under Sections 294(b), 323 and 506(i) IPC.



3.The learned counsel appearing for the petitioner would submit that the petitioner is the statutory tenant under the respondents, but instead of taking delivery of possession in a manner known to law, the petitioner was illegally evicted by the respondents and hence, he is entitled for redelivery of possession of the property. He would further submit that the Trial Court has not approached this case in a proper perspective and hence, the order impugned in this civil revision petition is liable to be set aside.

4.Heard Mr.L.Mouli, learned counsel appearing for the petitioner and perused the materials available on records.

5.In the case on hand, the petitioner claims to be a tenant under the respondents. According to him, on 18.04.2013, at 22.00 hours, he was forcibly evicted by the respondents despite an order of interim injunction granted by the Trial Court in I.A.No.1247 of 2013 on 16.04.2013. A counter affidavit was filed stating that the petitioner has voluntarily vacated the suit premises without paying monthly rent even before filing the suit, hence, there was no relationship of landlord and tenant and the suit itself is not maintainable.

6.It is not in dispute that to substantiate the case of the petitioner, no document was produced before the Trial Court and the oral evidence was also not let in. The Trial Court, considering the above aspects, held that the petitioner can file an appropriate petition either under Order 39 Rule 2A of CPC or a suit under Section 6 of the Specific Relief Act, 1963 for recovery of possession of the property and dismissed the application. Even here, no material was produced to show that he was the tenant under the respondents on the date of filing of the suit and he was forcibly evicted by the respondents/landlords. Hence, I find no illegality in the order impugned in this civil revision petition.

7.In fine, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

skn



To

1. The III Additional District Munsif,
Coimbatore.

2. The Section Officer,
V.R. Section,
High Court, Madras.

+lcc to Mr.L.Mouli, Advocate, S.R.No.40332

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SS[co]
NSK 08/09/2021