



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.859 of 2021 and

C.M.P.(MD)No.4676 of 2021

Rasak

... Revision petitioner/Petitioner/
2nd Respondent/2nd Respondent

Vs.

1. Shanuba Begam

... Respondent/1st Respondent/
Petitioner/Petitioner

2. Hakeem

... Respondent/2nd Respondent/
1st Respondent/1st Respondent

Prayer: Civil Revision petition filed under Section 115 of C.P.C., to call for the records pertaining to the order passed in E.A.No.2 of 2019 dated 08.01.2021 in E.P.No.42 of 2016 in R.C.O.P.No.12 of 2011 on the file of the learned District Munsif, Bodinayakanur, Theni District and set aside the same by allowing this civil revision petition.

For Petitioner

: Mr.S.Ayyanar Prem Kumar

O R D E R

The revision petitioner challenges the order passed by the executing Court dismissing E.A.No.2 of 2019 filed by him for terminating E.P.No.42 of 2016 on the file of the District Munsif Court, Bodinayakanur.

2. The first respondent herein is the sister-in-law of the petitioner. The second respondent Hakkim is the brother of the petitioner. The petitioner and his brother are presently carrying on partnership business. The business is being carried out in the property belonging to the first respondent. The first respondent filed R.C.O.P.No.12 of 2011 on the file of the Rent Controller/District Munsif, Bodinayakanur for evicting the revision petitioner and the second respondent. The said eviction petition was allowed on 20.01.2015. Challenging the same, the petitioner filed R.C.A.No.3 of 2015 before the Sub Court, Theni. The said R.C.A. suffered dismissal on 18.07.2018. In the meanwhile, E.P.No.42 of 2016 has been filed by the first respondent. To terminate the same, the petitioner filed E.A.No.2



of 2019. The said petition has since been dismissed by the Court below by the impugned order dated 08.01.2021.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds.

4. I wanted to know whether the order passed by the appellate authority confirming the eviction order has become final. The learned counsel appearing for the petitioner replied that the petitioner has filed R.P.No.1 of 2019 before the Sub Court, Theni and that it is still pending.

5. Taking note of these aspects, the learned Sub Judge, Theni, is requested to dispose of R.P.No.1 of 2019 in R.C.A.No.3 of 2015 on merits and in accordance with law within a period of two months from the date of receipt of a copy of this order. The said review application will become infructuous, if delivery is effected in the meanwhile. The executing Court is directed to defer passing any delivery order for a period of ten weeks from the date of receipt of a copy of this order. The executing Court cannot be faulted for dismissing the E.A. filed by the revision petitioner herein, when the eviction order has not been set aside. The executing Court is obliged to proceed ahead in the matter. The impugned order does not call for interference. However, the direction mentioned above has been given only in the interest of justice.

6. With this direction, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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+1 CC to Mr.S.AYYANAR PREMKUMAR, Advocate (SR-19208[F] dated
11/06/2021)

CRP.(MD)No.859 of 2021
09.06.2021

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