



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.826 of 2021 (NPD)
and C.M.P. (MD)No.4456 of 2021

WEB COPY

Vanitha ... Petitioner/Respondent/Respondent

Vs.

Lepdinant General

Devaraj Anbu ... Respondent/ Petitioner/ Petitioner

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the order passed in E.P.No.1/2019 in R.C.O.P.No.12/2018 dated 17.03.2021 on the file of the District Munsif Court, Madurai Taluk for delivery and to set aside the same and also to decide and dispose on merits.

For Petitioner : Mr.R.Babu Jaganath
(In both C.R.Ps)

For Respondent : Mr.Alaguramjothi
(In both C.R.Ps)

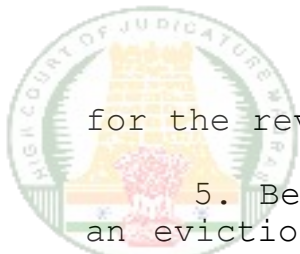
ORDER

Heard the learned counsel on either side.

2. This Civil Revision petition is directed against the order passed by the Executing Court granting delivery to the respondent herein. The respondent is admittedly the landlord, in respect of the petition mentioned premises. Contending that the rent has not been paid, the respondent filed RCOP No.12/2018 before the Rent Controller, Madurai Taluk, Madurai. The said RCOP was allowed as early as on 11.10.2018. It is not in dispute that the said eviction order was not put to challenge within time.

3. Even as on date, the case of the revision petitioner is that, only an appeal has been filed, but it is yet to be numbered, as the condone delay petition is yet to be allowed.

4. I wanted to know as to when the rent was paid last. The learned counsel for the respondent would state that even at the time of filing RCOP, the revision petitioner was in arrears. Even according to the learned Counsel for the revision petitioner, no rent has been paid since 2018. The learned counsel for the respondent would further state that delivery has since been effected and that possession has also been taken. Of course, learned counsel



for the revision petitioner would dispute the said statement.

5. Be that as it may, the Executing Court has merely enforced an eviction order. It is not the case of the revision petitioner that the eviction order had been stayed by the appellate authority. As already pointed out, the eviction order was passed way back in October 2018; only in March 2021, the eviction order has been given effect to by the Executing Court and delivery has been ordered. The approach adopted by the Executing Court cannot be faulted on any ground. Merely because, RCA has been filed with condone delay petition, the Executing Court cannot be expected to indefinitely defer or adjourn the proceedings. The impugned order does not call for any interference.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Vsm

To

The District Munsif,
District Munsif Court,
Madurai Taluk

C.R.P. (MD)No.826 of 2021 (NPD)

09.06.2021

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