



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2021

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THE HONOURABLE MRS.JUSTICE S. ANANTHI

C.R.P(MD).No.1021 of 2021 and
CMP(MD).No.5907 of 2021

R. Sampathkumar : Petitioner / Respondent/Respondent
Vs.
Shakila Banu : Respondent / Petitioner/Petitioner

PRAYER:- Civil Revision Petition filed under Section 115 Civil Procedure Code to set aside the fair and decreetal order made in E.P.No. 37 of 2021 in RCOP.No.65 of 2015 on the file of I Additional District Munsif, Trichy, dated 19.03.2021.

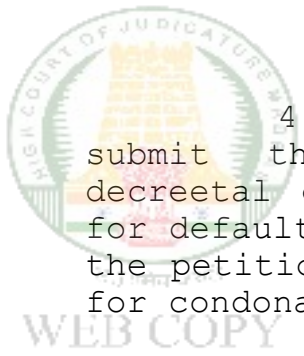
For petitioner : Mr. R. Sundar
For respondent : Mr. K.N. Guru

ORDER

This Civil revision has been filed against the fair and decreetal order, dated 19.03.2021 made in E.P.No. 37 of 2021 in RCOP.No.65 of 2015 on the file of I Additional District Munsif Court, Trichy,

2. I have heard the learned counsel appearing on either side and perused the materials available on record.

3. The present civil revision petition filed by the revision petitioner / respondent to set aside the order, dated 19.03.2021 passed in E.P.No.37 of 2021 on the ground that RCA.SR.No.1424 of 2021 on the file of the Principal Subordinate Court, Trichy is still pending and the Executing Court failed to note the ingredients of Order 21 Rule 22 CPC. The Execution Petition was filed for delivery of possession within a period of two years from the date of decree and hence, notice is not necessary. According to the petitioner, as per Order 21 Rule 22 CPC, the Court must record the reason for not issuing the notice in execution petition. By order dated 19.03.2021 the Executing Court gave a reason that if the issue of notice would leads delay in taking the property. Hence, in the interest of justice the order of delivery by 19.04.2021. This is a reason contemplated under Order 21 Rule 22 CPC.



4. The learned counsel appearing for the respondent would submit that already RCA.No.5 of 2017 filed against the fair and decreetal order passed in RCOP.No.65 of 2015, which was dismissed for default on 19.08.2018 without filing a petition for restoration, the petitioner filed a new RCA.SR.No.1424 of 2021 that too pending for condonation of delay.

5. The act of revision petitioner shows that he wants to delay the delivery of possession. As per the order passed in R.C.O.P.No.65 of 2015, on or before 21.03.2020 the possession to be handed over to the respondent / landlord, but till date the possession was not handed over to her. Hence, the Executing Court rightly recorded the reason but without issuing notice to the revision petitioner.

6. In such circumstances, this Court finds no error in the order dated 19.03.2021 passed in E.P.No. 37 of 2021 in RCOP.No.65 of 2015 by the I Additional District Munsif Court, Trichy and hence, the Civil Revision Petition is dismissed. The revision petitioner is directed to hand over the possession to the respondent / landlord within a period of two months from today. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (ADII)

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/ /2021

Sub Assistant Registrar(CS)

trp

To

The I Additional District Munsif, Trichy,

C.R.P(MD).No.1021 of 2021 and
CMP(MD).No.5907 of 2021
28.09.2021

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