



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.06.2021

Delivered on : 06.08.2021

CORAM:

THE HONOURABLE MRS.JUSTICE R.THARANI

C.R.P.(MD)No.280 of 2018

and

C.M.P.(MD)No.1238 of 2018

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Anandha Kumar ... Petitioner/1st Respondent /1st Defendant

Vs.

1.L.P.Saravanan

2.L.P.Iyyappan

3.L.P.Thiyagarajan ... Respondents 1 to 3/Petitioners/Plaintiffs

4.V.R.Y.Vittabai @ Nalinidevi

Parambarai Arangavalar of Madhu Sri

Akkabai Ammani Chatram

... 4th Respondent /2nd Respondent/2nd Defendant

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order in I.A.No.364 of 2017 in O.S.No.120 of 2015, dated 01.11.2017, on the file of the Principal District Munsif Court, Pattukottai.

For Petitioner : Mr.Niranjana S.Kumar

For Respondents : Mr.B.Rooban

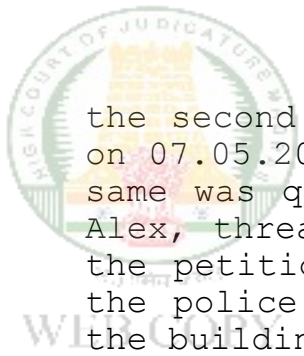
ORDER

This Civil Revision Petition is filed against the order passed in I.A.No.364 of 2017 in O.S.No.120 of 2015 on the file of the Principal District Munsif, Pattukottai.

2.The revision petitioner is the first defendant in the suit and first respondent in the I.A. Petition, the respondents 1 to 3 are the plaintiffs in the suit and petitioners in the I.A. petition and the fourth respondent is the second defendant in the suit and the second respondent in the I.A. Petition.

3.Brief substance of the petition in I.A.No.364 of 2017 is as follows:

3.1.The petitioners filed a suit not to evict them without due to process of law. In the suit, the petitioners filed a petition in I.A.No.370 of 2015 for a prayer of temporary injunction. That petition was allowed on 18.08.2015. Against that order, the first respondent filed an appeal in C.M.A.No.5 of 2015 and the same is pending before the Sub Court, Pattukottai. When the petitioners were not in the house, on the inducement of the first respondent,



the second respondent and 50 others entered into the suit premises, on 07.05.2017, at 12.30 a.m., and demolished the building. When the same was questioned by the petitioners, an Advocate clerk by name, Alex, threatened them with dire consequences, he was having sickle, the petitioners and their family members lodged a complaint before the police and the second respondent stated that he is demolishing the building on the basis of a High Court order.

3.2.The shop was demolished and a Tin sheet, Iron pipe, T.V., steel, pillars, vessels, fridge, grinder, tables, chairs, empty gas cylinder were all stolen by the second respondent. On 14.05.2017, at about 9.00 a.m., the entire building was demolished on 20.05.2017, at about 9.45 p.m., the respondents cut the E.B. connection and demolished the entire shop and the house with J.C.B bearing Registration No.TN-67-E-707. Though a complaint was lodged before the police, no steps was taken by them. Hence, the petitioners lodged a complaint before the Deputy Superintendent of Police, Thanjavur. Subsequently, on 26.05.2015, a F.I.R was registered against the second respondent and others. The petitioners were deprived of their residence and the shop. The action of the respondents is against the stay order issued by the Court and restoring the possession is necessary.

4.Brief substance of the counter of the first respondent, in I.A.No.364 of 2017, is as follows:

4.1.The suit property belongs to Madhu Sri Akkabai Ammani Chatram. The first respondent is the hereditary trustee. On 17.06.1953, a rental agreement was entered into between the grand-mother of the petitioner / Lakshmiammal and the then hereditary trustee / Nagoji Ramachandra Gadkerav Sahib, through his power agent Kathaiyan Chettiyar. After the demise of Lakshmi ammal, her son, viz., Panderinathan, was as a tenant and after the demise of Panderinathan, the petitioners were residing in the property, without any rent. The first respondent Trust was not having sufficient funds to take any action against the petitioners. The rental agreement dated 17.06.1953 was not renewed subsequently.

4.2.Due to a fire accident in the near by building, the suit property was also damaged. A case in Crime No.471 of 2015 was registered, on 27.06.2015 by the Pattukkottai Town Police. All the tenants have vacated the premises, the debris was removed and a new building is under construction. The petitioners vacated the premises after the fire accident. When ever, the first respondent tried to do any renovation work, the petitioners used to restrain the work. A police complaint was lodged on 13.07.2015. Only the building was rented to the grand mother of the petitioners. But, the petitioners have obtained stay order, as if they rented the cite. A case was filed by the petitioners against one Nalinidevi, who is no way connected with the Trust, and the order was obtained against the



Trust.

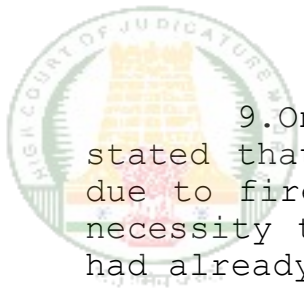
4.3.The first respondent is the Trustee from 1986 onwards. When he was a minor, he was represented by his father. Later, after attaining majority, he acted as a Trustee directly. After the fire accident, when the premises was in the custody of the first respondent, the petitioners tried to trespass into the property and the same was prevented by the first respondent. The petitioners prayed for police protection and the same was rejected by the police. Hence, the petitioners filed a petition in Crl.O.P.(MD) No.17457 of 2015, before this Court and that prayer was rejected by this Court.

5.I.A.No.370 of 2015 was allowed on 18.08.2015, but, the first respondent has filed an Appeal in C.M.A.No.5 of 2015, against that order. There is no house or shop in the premises, after the fire accident. The suit property is situated in the prime locality of Pattukkottai, Municipal School is opposite to the property. Only to remove the debris without hindrance to public cleaning work was done in the night hours. The second respondent is the Clerk, working for the first respondent. A false was registered against the first respondent and the stay order obtained against the first respondent in his individual capacity will not bind the Trust. The petitioners are not having any right over the property and the petitioners cannot claim any possession and the petition is to be dismissed.

6.Seventeen documents were marked on the side of the petitioners and one document was marked on the side of the respondents. No witness was examined by both the parties.

7.After hearing both side, the trial Court has allowed the petition in I.A.No.364 of 2017. Against that order, the petitioner has approached this Court by way of filing this Revision.

8.On the side of the revision petitioner, it is stated that without appreciating the facts, the trial Court allowed the petition for restoration of possession. The trial Court failed to consider that there was no action on the part of the respondent, till 15.05.2017, when the alleged disturbance of possession was by 07.05.2017. Rental agreement was only for a period of three years, that expired in the year 1956 itself. Without renewal of rental agreement and without paying rent, the respondents 1 to 3 were in possession. Only due to the fire accident that took place on 27.06.2015, the property become uninhabitable. The respondents 1 to 3 are not legally entitled to remain in possession, they voluntarily vacated the property due to the fire accident. As against the injunction order, in I.A.No.370 of 2015, C.M.A.No.5 of 2015 is still pending and the same was reserved for judgment and the order of restoration has to be set aside.



9. On the side of the revision petitioner, it is further stated that the suit property and adjoining property were damaged due to fire accident. A new building is constructed. There is no necessity to restore the possession, since the revision petitioners had already vacated the premises, due to fire accident.

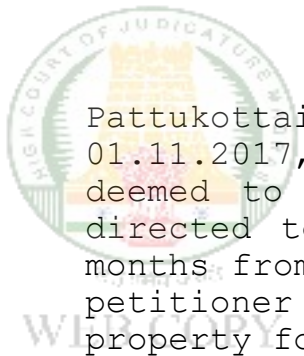
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10. On the side of the respondents, it is stated that injunction order was violated by the revision petitioner. The appeal in C.M.A.No.5 of 2015 filed by the revision petitioner before the Sub Court, Pattukkottai, was dismissed. The respondents 1 to 3 as tenants of the Trust, filed a suit in O.S.No.120 of 2015 against the respondents 1 and 2, not to evict them, except under due process of law, in the suit and in the I.A. petition, the revision petitioner has accepted the possession and enjoyment of the respondents 1 and 3, ad-interim injunction was granted in I.A.No.370 of 2015, on 18.08.2015. While the C.M.A is pending, the revision petitioner violated the injunction order and has encroached the suit property. A petition in I.A.No.364 of 2017 was filed against the revision petitioner herein and the fourth respondent herein for contempt of Court. A petition for police protection filed by the respondents 1 to 3 was dismissed on 29.09.2015. The C.M.A filed by the revision petitioner was dismissed, on 31.07.2018 and there is nothing survives for adjudication in the present petition. The revision petitioner admitted the tenant's possession in the suit property and prayed the revision to be dismissed.

11. It is seen that the respondents 1 to 3 filed a suit not to evict them without due process of law. In the suit, they obtained an interim injunction order. Against that order, the revision petitioner filed an Appeal in C.M.A.No.5 of 2015 and the same was also dismissed by the Appellate Court, on 31.07.2018. In the meanwhile, the respondents 1 to 3 filed a petition in I.A.No.364 of 2017, to restore the possession and that petition was allowed by the District Munsif, Pattukkottai, on 01.11.2017 and the same was questioned in this Civil Revision Petition. When the injunction order was in-force, the revision petitioner demolished the building, wherein, the respondents 1 to 3 were residing and were doing business. The case of the revision petitioner is that the respondents already vacated the premises due to the fire accident and the revision petitioner removed the debris with the help of J.C.B. Admittedly, the premises is now vacant.

12. In the above circumstances, there is no possibility for the respondents 1 to 3/ plaintiffs to get restoration of possession. But, the Court can treat them as deemed to be in possession. Already in C.M.A.No.5 of 2015, the Sub Court, Pattukkottai, has directed the District Munsif, to dispose of the original suit within a period of six months. But, due to the filing of the I.A. petition, the original suit was not disposed of so far.

<https://hcservices.ecourts.gov.in/services/> the order passed by the Principal District Munsif,



Pattukottai, in I.A.No.364 of 2017 in O.S.No.120 of 2015, dated 01.11.2017, is modified. The respondents 1 to 3/ plaintiffs are deemed to be in possession and the Principal District Munsif is directed to dispose of the original suit within a period of four months from the date of receipt of copy of this order. The revision petitioner is directed not to alienate the property or to give the property for rent to any other person till the disposal of the suit.

14.With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal District Munsif Court,
Pattukottai.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.R.ROOBAN, Advocate (SR-25595[F] dated 09/08/2021)

+1 CC to M/s.NIRANJAN.S.KUMAR, Advocate (SR-25559[F] dated 06/08/2021)

Pre-delivery Order made in
C.R.P(MD)No.280 of 2018
06.08.2021

RS (24.08.2021) 5P 6C