



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 06.07.2021
PRONOUNCED ON : 23.07.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(MD)No.1266 of 2014

MP(MD)No.1 of 2014

(Through Video Conferencing)

Janaki @ Gnanammal

... Petitioner

Vs

1.Ponnammal (died)
2.Sekar Pattar

... Respondents

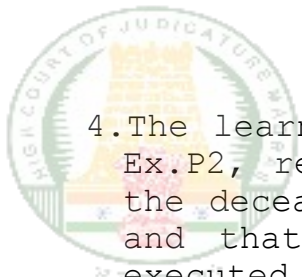
Prayer:- This Civil Revision Petition has been filed, against the fair and decreetal order, dated 16.04.2014, passed in EP.No.34 of 2007 in RCOP.No.9 of 2002, by the District Munsif Court, Tiruchendur.

For Petitioner : Mr.K.Chengizkhan

For Respondent : Mr.M.Arjunvarman for Mr.T.Lajapathiroy

ORDER

- 1.This Civil Revision Petition has been filed, against the fair and decreetal order, dated 16.04.2014, passed in EP.No.34 of 2007 in RCOP.No.9 of 2002, by the District Munsif Court, Tiruchendur.
- 2.The facts of the case, in a nutshell, are that the tenant is the Petitioner and the deceased landlord and the proposed legal heir of the deceased landlord are the Respondents. The deceased landlord had filed the RCOP for eviction of the Petitioner and the RCOP was allowed and the appeal filed by the tenant was dismissed. The EP was filed by the legal heir of the deceased sole landlord for delivery of possession and since the EP was allowed by the impugned order, this Civil Revision Petition has been filed by the tenant.
- 3.The learned counsel for the Petitioner has submitted that the court below erred in allowing the execution petition filed by the 2nd Respondent on behalf of the deceased landlord, relying on the Will executed by the landlord in favour of the 2nd Respondent and that the 2nd Respondent is not the legal heir of the deceased landlord and that when the 2nd Respondent has no locus standi to execute the decree passed in favour of the 1st Respondent and also when the 2nd Respondent has no contractual relationship as landlord and tenant, the court below ought to have dismissed the execution petition and hence, the impugned order is liable to be



- 4.The learned counsel for the Respondents has submitted that as per Ex.P2, registered Will, the 2nd Respondent is the legal heir of the deceased landlord, who has an order of eviction in his favour and that it is not open to the tenant to challenge the Will executed by the landlord in favour of the 2nd Respondent and accordingly, the court below had rightly ordered for eviction of the tenant, by the impugned order, which warrants no interference.
- 5.This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
- 6.There was an order of eviction of the Petitioner in favour of the deceased 1st Respondent/ landlord. The 2nd Respondent is allegedly said to be the legal heir of the deceased landlord. It is seen from the records that the petitions to set aside abatement, to condone the delay in filing the impleading petition and to implead the 2nd Respondent as the legal heir of the deceased land lord were dismissed, as not pressed. It is also seen from the impugned order that the 2nd Respondent herein is arrayed as the proposed legal heir of the deceased landlord, thereby meaning that he is not impleaded as the legal heir of the deceased landlord, in a manner known to law. When the 2nd Respondent is not impleaded as per law, there could not be any order in his favour and the court below erred in allowing the execution petition in his favour and hence, the impugned order is vitiated and accordingly, it is set aside. However, to meet the ends of justice, liberty is given to the 2nd Respondent to implead himself in the proceedings, in a manner known to law and proceed further, in accordance with law.
- 7.With the above observations, this Civil Revision Petition is disposed of. No costs. Consequently, the connected MP is closed.
- 8.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Srcm

To

The District Munsif Court, Tiruchendur

+1 CC to M/s.T.LAJAPATHI ROY, Advocate(SR-23839[F] dated 26/07/2021)
+1 CC to M/s.G.PRABHU RAJADURAI, Advocate(SR-23840[F] dated 26/07/2021)

CRP (MD) No.1266 of 2014

23.07.2021

RC (03.08.2021) 2P-4C

<https://hcservices.ecourts.gov.in/hcservices/>