



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2021

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THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P(NPD) (MD)No.1717 of 2021

and

C.M.P(MD) No.9175 of 2021

WEB COPY

Balasubramanian

... Petitioner / Respondent/
Respondent

Vs.

The Executive Officer,
Arulmigu Vedhapurreeswarar Swamy Thirukoil,
Thiruvedhikudi,
Kandiyur,
Thiruvedhikudi,
Thanjavur Taluk.

... 1st Respondent/petitioner/
petitioner

Jaithoon Beevi Ammal (died)

PRAYER:- Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 27.09.2021 made in E.P.No.69 of 2020 in P.T.No.434 of 2017 on the file of the Special Deputy Collector cum Revenue Court, Thanjavur by allowing this civil revision petition.

For Petitioner

: Mr.K.Guhan

ORDER

The judgment debtor is the revision petitioner before this Court challenging the order dated 27.09.2021 passed in E.P.No.69 of 2020 in P.T.No.434 of 2017 on the file of the Special Deputy Collector cum Revenue Court, Thanjavur.

2.The facts in brief which are necessary to dispose of the above civil revision petition are as follows:-

2.1.The respondent temple had filed a fair rent proceeding in FRP No.160 of 1965 against several tenants including the petitioner's family. The fair rent was fixed at 10 kalams per mah. This application was taken on revision by the tenants before the Sub Court, Thanjavur in C.M.P.No.78/66 and the same was allowed. Thereafter, the respondent Temple moved Civil Court Second Appeal No.2436/76 before this Court. This Court had upheld the right of the temple as owner and the right to collect the rent from the tenants, who were tenants on a earlier rent. The temple was entitled to receive rent at 10 kalams per mah. The deceased



respondent had sublet the property to the petitioner herein.

2.2.It appears that in the proceedings in FRP No.160/1965, the rent was fixed at 55 kalams per year and the rent due from the petitioner was 55 kalams per year. Therefore, since the petitioner has not come forward to clear the arrears, the respondent temple had moved an application in P.T.No.434 of 2017 before the Revenue Court, Thanjavur, for evicting the respondent from the premises and delivering the possession thereof. The said application was allowed by the Revenue Court by order dated 20.07.2018. This order was sought to be executed by filing the execution proceedings in E.P.No.69 of 2020 before the Special Deputy Collector cum Revenue Court, Thanjavur. By order, dated 27.09.2021, the Special Deputy Collector cum Revenue Court, Thanjavur was pleased to direct the petitioner herein to vacate and hand over the possession. This order has been challenged in this revision.

3.The learned counsel appearing for the petitioner would submit that the Court below has totally misdirected itself in levying the rent from the year 1984 till 2015-2016 and the respondent temple has not established the receipt of the rent etc. He would therefore submit that the order cannot be executed and sought for dismissal of the order in E.P.No.69 of 2021.

4.Heard the learned counsel for the petitioner and perused the records.

5.Admittedly, the revision petitioner has not chosen to challenge the order passed by the Special Deputy Collector cum Revenue Court, Thanjavur in P.T.No.434 of 2017 and this order has attained finality. The petitioner cannot question the legality of the order passed in P.T.No.434 of 2017, when the present proceeding is the subsequent action to enforce the said order. It is needless to say that the executing Court cannot go behind the order.

6.In these circumstances, there is no merit in the revision and accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cp



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.

WEB COPY

To:-

The Special Deputy Collector cum Revenue Court,
Thanjavur.

+1 CC to M/s.K.GUHAN, Advocate (SR-33823[F] dated 09/11/2021)

C.R.P (NPD) (MD) No.1717 of 2021

and

C.M.P (MD) No.9175 of 2021

09.11.2021

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