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C.R.P.(NPD) No.1565 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.1565 of 2022
and C.M.P.No.7898 of 2022

N.Manoharan

... Petitioner

Vs.

1.N.Velumani

2.G.Saravanan

3.V.Nagaraj

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the Delivery Order dated 25.01.2022 in E.P.No.344 of 2019 in R.C.O.P.No.76 of 2016 on the file of the learned Principal District Munsif, Coimbatore.

For Petitioner : Mr.M.Premkumar

For M. Aravind Subramaniam

ORDER

This Civil Revision Petition has been filed challenging the order of the learned Principal District Munsif, Coimbatore, dated 25.01.2022 in E.P.No.344 of 2019 in R.C.O.P.No.76 of 2016.



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2. The revision petitioner is the tenant in the RCOP proceedings held in RCOP No.76 of 2016. At the conclusion of the RCOP proceedings, the eviction has been ordered and the execution petition in E.P No.344 of 2019 was filed for executing the eviction order. During the course of the same, the Executing Court has passed an order on 25.01.2022 for delivery. Now the revision petitioner has preferred this revision challenging the above order of the Executing Court on the premise that he was not a tenant in the suit property, but in possession of the suit property in pursuance of the sale agreement in respect of the suit property and that he has filed a suit for specific performance against the 1st respondent in O.S No.296 of 2005. It is further submitted that the suit for specific performance was dismissed and the revision petitioner challenged the same, by filing an appeal in A.S No.1062 of 2012 and the same is pending before this Court.

3. The contention of the learned counsel for the petitioner is that during the pendency of the appeal, the Executing Court cannot execute the orders passed in the rent control proceedings by way of ordering 'delivery'. The Executing Court has got the power to execute the order and it cannot appreciate the merits of any order due to be executed. Even for the sake of



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argument, if the revision petitioner has got valid grounds of appeal in A.S No.876 of 2008 and the same is allowed, he can file execution proceedings to execute the decree and thereafter get possession. As of now, in his capacity as a tenant, the rent control proceedings were initiated against him and it was ended in favour of the 1st respondent. As already pointed out, the Executing Court has got the duty to execute the order and during that course, the order for delivery was passed. Since the said order of the Executing Court is legal and well within its power, I do not find any reason for interference.

4. Accordingly, the Civil Revision Petition is dismissed and the delivery order passed in E.P No.344 of 2019 in R.C.O.P No.76 of 2016 dated 25.01.2022, by the learned Principal District Munsif, Coimbatore, is hereby confirmed. No Costs. Consequently, connected Miscellaneous Petition is closed.

08.06.2022

Index : Yes/No
Speaking Order : Yes / No
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R.N.MANJULA, J.,

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To

- 1.The Principal District Munsif,
Coimbatore.
- 2.The Section Officer,
VR Section, Madras High Court,
Chennai.

C.R.P.(NPD).No.1565 of 2022
and C.M.P.No.7898 of 2022

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