



C.R.P.No.3324 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3324 of 2022
and
C.M.P.No.17627 of 2022

Lakshmi

... Petitioner

VS

1.Durai Raj

2.Chandrasekar

3.Narasimman

Rajmohan (Died)

4.Vidya

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the fair and decreetal order dated 30.06.2022 passed by the District Munsif Court, Sathyamangalam, Erode District in E.A.No.4 of 2021 in E.A.No.8 of 2015 in RCOP EP.No.1 of 2014 and allow the Civil Revision Petition.

For Petitioner : Mr.M.Dinesh



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the petitioner seeking stay of the execution of eviction order passed in R.C.O.P.No.1 of 2006.

2. The revision petitioner is the legal representative of the 2nd respondent in R.C.O.P.No.1 of 2006, who suffered an eviction order.

3. From the perusal of the typed-set of papers, it is clear that challenging the eviction order passed against the husband and son of the revision petitioner herein, they preferred an appeal before the Rent Control Appellate Authority in R.C.A.No.1 of 2013 and the same was dismissed for default on 22.03.2014. Thereafter, they filed a petition to restore the same in I.A.No.105 of 2014 and the said petition was also dismissed on 23.01.2015. Subsequently, the revision petitioner herein who is a third party, wife and mother of the persons who suffered an order of eviction filed a suit for bare injunction against the respondents who obtained the eviction order in



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O.S.No.347 of 2004 on the file of the District Munsif Court, Sathyamangalam and the same was dismissed on 22.09.2006. It is stated by the petitioner that she filed an appeal challenging the dismissal of the suit for injunction in A.S.No.57 of 2018 before the III Additional District Judge Court, Gobichettipalayam and the same is pending.

4. The present petition in E.A.No.4 of 2021 was filed by the revision petitioner mainly on the ground that during the pendency of first appeal filed by her, the eviction order passed against her husband and son should not be put into execution. It is also stated that son of the petitioner viz., S.N.Raj Mohan passed away and she was brought on record as one of the legal representatives in execution petition.

5. The contention raised by the revision petitioner cannot be accepted in view of the fact that the order of eviction passed in R.C.O.P.No.1 of 2006 had attained finality already. It is not open to the revision petitioner to file a separate suit for injunction and frustrate the decree.



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6. Even according to the revision petitioner, the said suit was already dismissed and she has filed an appeal before the III Additional District Judge Court, Gobichettipalayam. If at all it is for the petitioner to obtain appropriate orders from the First Appellate Court, it is not open to the petitioner to seek stay of execution of eviction order on the ground that an appeal filed by her challenging the dismissal of the suit for injunction filed by her is pending. Therefore, there is no merit in the present civil revision petition.

7. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes / No
Speaking Order : Yes / No
dm



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To

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The District Munsif Court,
Sathyamangalam.



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S.SOUNTHAR, J.

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