



CRP No.4147 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-12-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CRP No.4147 of 2022

And

CMP No.21649 of 2022

M.Natarajan

.. Petitioner

VS.

1.A.Vellingiri

V.Ganapathi (died)
S/o.Velappapillai

Palaniyammal (a) Myilathal (Died)
W/o.Late.V.Ganappathi

2.G.Natarajan

3.G.Nanthakumar

4.Manjuladevi

5.G.Harivaratharaj Perumalsamy
(a) Selvam

.. Respondents



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PRAYER : This Civil Revision Petition is filed under Article 227 of the Constitution of India against the rejected petition under Order XXI Rule 97 of Code of Civil Procedure, 1908 in CFR No.6618 of 2022 dated 24.08.2022 in EPR No.45 of 2018 in RCOP No.6 of 2004 pending on the file of the Principal District Munsif Court at Pollachi.

For Petitioner : Mr.M.Udayakumar
For Respondent-1 : Ms.S.Kanniya
For Respondents-2 to 5 : Mr.Vinoth Raja,
Government Advocate
(Criminal Side)

ORDER

The present Civil Revision Petition has been instituted challenging the order dated 24.08.2022 passed in CFR No.6618 of 2022.

2. The first respondent in the revision petition is the landlord and the second respondent one Mr.Ganapathy was the original tenant, who expired and the revision petitioner claims to be the tenant of the second



respondent deceased Mr.Ganapathy. However, the revision petitioner filed RCA for deposit of rent, which was dismissed by the Rent Control Court.

The first respondent-landlord filed an Execution Petition earlier. Subsequently the first respondent filed CRP NPD No.908 of 2008 and this Court allowed the said CRP by setting aside the order passed in IA No.96 of 2007 in RCA No.3 of 2007. The RCA itself was dismissed subsequently dated 24.04.2018.

3. The EP No.45 of 2018 was filed by the landlord and the said Execution Petition was allowed and a detailed order was passed by the District Munsif Court, Pollachi on 07.01.2022, directing the respondents to hand over the possession of the subject property on or before 07.04.2022. Pursuant to the Execution Petition order, the bailiff, went to the subject property on 29.07.2022.

4. At that time, the revision petitioner raised an objection that she is in possession of the property and there was no order of execution against



the revision petitioner. Under those circumstances, the revision petitioner moved Execution Court under Order XXI, Rule 97 CPC. In respect of the said application, the Trial Court raised the question of maintainability and challenging the query raised by the Trial Court, the present Civil Revision Petition is filed.

5. The order impugned in the present civil revision petition reveals that the petition filed by the revision petitioner restricting the execution of the decree as he is the sub-tenant judgment debtor. The revision petitioner claimed tenancy right against the judgment-debtor, who had suffered an order of eviction.

6. The Trial Court relied on the judgment of the Supreme Court and held that consent given by the landlord to his tenant for creation of the sub-tenancy is valid only between the landlord and his tenant and such consent cannot be used by sub-tenant to create another sub-tenant under him, so as to bind the landlord.



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7. In the case of **Srikota Sudhakar vs. Mr.Vinod Mohan** [pronounced judgment on 29.06.2012 in S.A.No.261 of 2009], this Court held that the respondent being a subtenant, who is also an unauthorised sub-tenant is not entitled to obstruct the delivery of possession to the decree holder, even though he was not made as party to the suit filed by the owner against the main tenant.

8. The original tenant / second respondent suffered a decree of eviction. Thus, the revision petitioner claiming himself as sub-tenant of the second respondent has no right to claim any independent jural relationship tenant landlord / first respondent. Thus, the Trial Court found that the revision petitioner has no right to maintain the petition filed under Order XXI, Rule 97 CPC and accordingly dismissed the said application.

9. During the course of arguments, this Court found that the revision petitioner has not established any right for his continuance in the



subject premises, since the original tenant-second respondent was already ordered to be evicted by the Competent Court of Law. Under these circumstances, this Court has to ensure that the right of the landlord is protected, since the litigation was pending for the past more than 18 years. Any further delay would infringe the right of the landlord to enjoy his property in accordance with law.

10. The learned counsel for the revision petitioner made a request to grant further time to vacate and handover the possession of the subject property to the first respondent-landlord. On getting instructions from the revision petitioner, the learned counsel for the revision petitioner made a submission that the petitioner may be permitted to continue in the premises for about six months to make some alternate arrangements.

11. Since the landlord suffered 18 years for evicting the tenant, this Court is not inclined to grant such a long time and more-so, the learned counsel appearing on behalf of the first respondent objected for granting of



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long time in favour of the revision petitioner.

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12. Considering the facts and circumstances, this Court do not find any reason to interfere with the order passed by the Trial Court and the revision petitioner is directed to vacate and hand over the vacant possession to the first respondent, within a period of three months from today. In the event of failure on the part of the revision petitioner to vacate, the first respondent is at liberty to approach this Court by filing a contempt petition.

13. Accordingly, the Civil Revision Petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

15-12-2022

Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

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S.M.SUBRAMANIAM, J.

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To

The Principal District Munsif,
Principal District Munsif Court,
Pollachi.

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