



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.99 of 2017

and

C.M.P(MD)No.350 of 2017

A.N.S.Rajasekar

... Petitioner/Respondent
Respondent/Defendant

Vs.

The Jamia Mosque Executive Committee,
Tuticorin,
Through its President.

... Respondent/ Petitioner
Petitioner/Plaintiff

PRAYER : Civil Revision Petition is filed under Section 115 of CPC against the fair and decretal order, dated, 02.01.2017 passed in E.A.No.1 of 2017 in E.P.No.93 of 2014 in O.S.No.11 of 2007 on the file of Subordinate Judge, Tuticorin.

For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondent : Mr.K.K.Senthil

ORDER

The defendant in the suit has filed the present revision petition.

2. The plaintiff, namely, The Jamia Mosque Executive Committee, has filed E.P.No.93 of 2014 for taking delivery of the scheduled mentioned property on the basis of the ejectment decree. The delivery was ordered on 27.11.2015. However, when the amin visited the property, the property was under lock and key and hence, he could not execute the warrant. Hence, the present application in E.A.No.1 of 2017 has been filed by the decree holder to break open the petition mentioned property so as to effect the decree for ejectment. The said application was allowed on 02.01.2017.

3. The order for allowing the break open petition is under challenge by the judgment-debtor. The said order is mainly challenged on the ground that they have filed an appeal, which is in the S.R stage from the year 2016 onwards. The learned counsel for the petitioner further contended that no prior notice was served upon him before passing of an order of the break open. He further



contended that the huge sum of Rs.7,31,280/- has been paid and hence, the break open order should not have been passed. The learned counsel for the respondent contended that the present E.P.No.93 of 2014 is only for effecting delivery and it is not for recovery of money.

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4. The revision petitioner/judgment debtor has not challenged the order of delivery, dated, 27.11.2015. The order under challenge in the present revision petition is only permitting break open of the petition mentioned property. The grounds raised by the revision petitioner is not sustainable in law. I do not find any merits to interfere with this petition.

5. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Protocol)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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.

To

1.The Subordinate Judge,
Tuticorin.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,Madurai.

+1 CC to M/s.K.K. SENTHIL, Advocate (SR-21053[F] dated 26/04/2022)
C.R.P(MD)No.99 of 2017
22.04.2022

MGJ(13.05.2022) 2P 5C