



WEB COPY

C.R.P.No.87 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-01-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CRP No.87 of 2023

Sri Kannabiran Temple,
Represented by its Hereditary Trustee
M.Jayaraman,
S/o.T.Mayava Ramanuja Dasar,
No.25-A, Chinnakuzhanthai Street,
Maduma Nagar, Sembium,
Chennai-600 011.

... Petitioner

vs.

T.Pandurangan

... Respondent

The Civil Revision Petition is filed under Article 227 of the Constitution of India directing the learned IX Assistant City Civil Court at Chennai to dispose of the EP No.4011 of 2019 in OS No.1513 of 2001 filed by the petitioner by strictly adhering to the Rules laid down under the Tamil Nadu (Case Flow Management in Subordinate Courts) Rules 2007, within a reasonable time, as stipulated by this Court and the recent judgment of the Hon'ble Supreme Court in the case of **Rahul S. Shah vs. Jinendra Kumar**



Gandhi [(2021) 6 SCC 418] to dispose of the pending EP in an expeditious manner.

WEB COPY

For Petitioner : Mr.R.Manickavel

For Respondent : Mr.A.D.Janarthanan

ORDER

The present Civil Revision Petition is filed under Article 227 of the Constitution of India directing the learned IX Assistant City Civil Court at Chennai to dispose of the EP No.4011 of 2019 in OS No.1513 of 2001 filed by the petitioner by strictly adhering to the Rules laid down under the Tamil Nadu (Case Flow Management in Subordinate Courts) Rules 2007, within a reasonable time, as stipulated by this Court and the recent judgment of the Hon'ble Supreme Court in the case of **Rahul S. Shah vs. Jinendra Kumar Gandhi [(2021) 6 SCC 418]** to dispose of the pending EP in an expeditious manner.

2. The petitioner, who is the owner of the property and instituted proceedings for eviction of the respondent, who is the tenant. OS



No.1513 of 2001 filed by the petitioner was decreed in favour of the plaintiff and the First Appeal Suit filed in AS No.291 of 2010 was dismissed by the First Appellate Court. The Second Appeal filed in SA No.311 of 2017 before the High Court was also dismissed on 15.06.2017. Thus, the rights between the parties were crystallised and consequently, the revision petitioner/decreed-holder filed EP No.4011 of 2019.

3. The grievance of the petitioner is that the Execution Court is granting adjournments after adjournments and the respondent is also dragging on the proceedings by filing unnecessary petitions under Section 47 of the Code of Civil Procedure.

4. The respondent filed CRP No.3882 of 2022 and the said Civil Revision Petition was dismissed on 28.11.2022.

5. The Executing Court is expected to dispose of the Execution Petition, within a period of six months. Unnecessary Interlocutory Applications and frivolous applications filed in execution proceedings are to be disposed of without causing any undue delay and if this Court finds that



all such applications are filed only to drag the execution proceedings, then exemplary and maximum costs are to be imposed. The parties filing Interlocutory Application to drag on the proceedings or otherwise, must be dealt with sternly without granting unnecessary adjournments.

6. Adjournment is an exception. The Courts are expected to dispose of the matter vigilantly and by avoiding unnecessary adjournments at the instance of the parties, who may have several ideas for getting such adjournments. The Court cannot aid to achieve such ill-motive of the litigants and ensure that the petitions are decided consistently and regulating the same with reference to the cases of its own.

7. The Supreme Court on several occasions held that the execution petitions cannot be prolonged and must be decided, within a period of six months. One such recent judgment is that **Bhoj Raj Garg vs. Goyal Education and Welfare Society and Others [CDJ 2022 SC 1380]**. The said judgment was passed following the earlier judgment of the Apex Court, namely, **Rahul S. Shah vs. Jinendra Kumar Gandhi [(2021) 6 SCC 418]** and the following observations are made as under:-



WEB COPY



“42. All courts dealing with suits and execution proceedings shall mandatorily follow the below mentioned directions:-

2. The Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.”

This means that it becomes the duty of the Execution Court to dispose of the execution proceedings at the earliest and since this Court has directed that the Execution Court must dispose of the execution proceedings within six months from the date of filing, which can be extended only by recording reasons in writing for such delay, this direction is meant to be observed. This would mean that every effort should be made to dispose of the execution petition within the said time limit and the Execution Court should have reasons for not being able to dispose of the execution petition. The Execution Court is duty bound to record reasons in writing when it is unable to dispose of the matter.”

8. The respondent is not entitled to take any additional ground or other grounds with reference to the identity of the property, since the



issues were adjudicated in the three proceedings upto the High Court. Thus the Execution Court cannot venture into the adjudication of disputes between the parties and the decree-holder must be allowed to enjoy its fruits..

9. In view of the fact that the Execution Petition in the present case filed in EP No.4011 of 2019 is pending for the past more than 3 years, the IX Assistant City Civil Court at Chennai is directed to dispose of EP No.4011 of 2019 in OS No.1513 of 2001, within a period of one month from the date of receipt of a copy of this order.

10. With the abovesaid directions, the present Civil Revision Petition stands allowed. However, there shall be no order as to costs.

12-01-2023

Svn
Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order



C.R.P.No.87 of 2

To

WEB COPY

The IX Assistant Judge,
IX Assistant City Civil Court,
Chennai.



WEB COPY

C.R.P.No.87 of 2



S.M.SUBRAMANIAM, J.

Svn

CRP 87 of 2023

12.01.2023