



WEB COPY

C.R.P.No.127 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.127 of 2023
and
C.M.P.No.1086 of 2023

R.Purushotham Mohta

... Petitioner

Vs.

M/s.Chinni Sriramulu Chetty Charities

Represented by its Trustees

1.Chinni Ramesh Babu

2.Chinni Balaji

3.Chinni Vinay Krishna

All residing at:

New No.244, Old No.118

Govindappa Street,

Chennai 600 001.

... Respondent

Prayer: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 19.12.2022 passed in E.A.No.7 of 2022 in E.P.MNo.3750 of 2019 in O.S.No.4037 of 2001.

For Petitioner : Mr.G.RM.Palaniappan

For Respondent : Mr.T.Rajamohan



ORDER

The Civil Revision Petition is filed challenging the Fair and Decreetal Order dated 19.12.2022 in E.A.No.7 of 2022 in E.P.No.3750 of 2019 in O.S.No.4037 of 2001.

2. The revision petitioner is the tenant / Judgement Debtor and the respondent is the landlord / decree holder. The respondent / landlord instituted Eviction Proceedings in the year 2001 in O.S.No.4037 of 2001.

3. It is not in dispute that the revision petitioner / tenant is in occupation of the subject premises for the past more than 35 years. The Suit decreed in favour of the respondent / landlord on 20.06.2005 and the Execution Petition filed by the decree holder was also allowed. Despite the fact that the decree was granted in favour of the respondent / landlord, he is unable to enjoy the fruits of the decree for the past about 17 years from the date of passing of the decree by the Competent Court on 20.06.2005. Finally, the revision petitioner filed the present E.A.No.7 of 2022 before the X Assistant City Civil Court, Chennai to refer the Execution Petition to Mediation. The Court dismissed the petition on the ground that the original decree was passed on 20.06.2005 in favour of the decree holder. Even then,



the decree holder was not able to take possession of the property in lieu of the petition filed by the judgement debtor one after the other for the past about 17 years. The Court found that in the event of allowing such frivolous petitions, the right of the decree holder is infringed and accordingly, the petition was dismissed.

4. The Execution Petition was also ordered long back and despite of the order of delivery passed by the Execution Court, the respondent / landlord is unable to take possession of the subject premises in view of the repeated petitions filed by the revision petitioner / tenant. In the event of allowing such practice of filing frivolous petitions one after the other with an ulterior motive to thwart the decree passed by the Competent Court, the trust on the judicial system will be slackened and thus, this Court is of the considered opinion that such practices should not only be condemned by the Courts but should be viewed seriously. The decree holder must be in a position to take back the possession as per the order passed in the Execution Petition.

5. The learned counsel for the respondent / landlord has brought to notice of this Court that re-issue of warrant and break-up the premises was



also ordered by the Competent Court on 01.02.2023. Under those circumstances, the revision petitioner has chosen to file the petition in order to avoid the execution of decree.

6. The revision petitioner has filed an affidavit of undertaking before this Court stating that he will vacate the subject premises and hand over vacant possession peacefully to the respondent / landlord on or before 28.02.2023.

7. In the event of not handing over the premises as per the undertaking given by the revision petitioner before this Court, the respondent / landlord is at liberty to file an appropriate Contempt Petition before this Court for initiation of further action.

8. In view of the undertaking filed by the revision petitioner, the Civil Revision Petition in C.R.P.No.127 of 2023 stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.01.2023

Skr/Jeni
Index : Yes
Neutral Citation : Yes
Speaking order



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To

The Judge,
X Assistant City Civil Court,
Chennai.



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S.M.SUBRAMANIAM, J.

Skr

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