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C.R.P.No.221 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.221 of 2023
and
C.M.P.No.1844 of 2023

B.Anandan

... Petitioner

Vs.

1.J.Prem John Edward

2.G.Susan Rebecca

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the order passed in E.P.No.39 of 2019 in RCOP.No.27 of 2016 dated 18.10.2022 on the file of the Hon'ble Principal District Munsif, Poonamallee by allowing the CRP with cost throughout.

For Petitioner

: Mr.M.Khader Basha



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ORDER

The Civil Revision Petition has been filed against the order passed in E.P.No.39 of 2019 in RCOP.No.27 of 2016 dated 18.10.2022 pending on the file of the Principal District Munsif, Poonamallee

2. The revision petitioner is the tenant/judgment debtor and the respondents/decree holders instituted eviction proceedings in R.C.O.P.No.27 of 2016. The said R.C.O.P was allowed and eviction was ordered against the revision petitioner. The respondents/decree holder filed E.P.No.39 of 2019 and the Execution Court considered the grounds raised by the revision petitioner and accordingly, allowed the Execution Petition in favour of the decree holders and ordered for delivery by 19.12.2022. The said order passed in the Execution Petition is under challenge in the present Civil Revision Petition.

3. The learned counsel for the revision petitioner made a submission that the petition premises is a Poramboke land and therefore, the respondents are not the owners of the property. It is further stated that the



petitioner/judgment debtor constructed the building in the schedule property and running a hotel.

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4. However, those issues raised in the Execution proceedings cannot be adjudicated on merits. The grounds raised in the R.C.O.P proceedings were adjudicated and eviction was ordered. If at all the revision petitioner is aggrieved from and out of the order passed in the R.C.O.P, then he has to file an appeal, raising all these grounds. Contrarily, such grounds on merits are not entertainable in the Execution Proceedings and thus, the Execution Court rightly rejected those contentions raised by the judgment debtor and allowed the Execution Petition by ordering delivery.

5. The scope of the Execution Proceedings cannot be expanded for the purpose of adjudication of merits or issues raised between the parties. Once, the decree is passed on merits and in accordance with law, it is to be executed and the decree holder is entitled to enjoy the fruits of the decree and therefore, raising further grounds on merits in Execution proceedings is impermissible.



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6. In view of the facts and circumstances, this Court do not find any infirmity in respect of the order passed in E.P.No.39 of 2019 in RCOP.No.27 of 2016 dated 18.10.2022 on the file of the Principal District Munsif, Poonamallee and the same stands confirmed. Thus, the revision petitioner/tenant is directed to vacate the premises and hand over the vacant possession to the respondents/landlord immediately.

7. With this direction, the Civil Revision Petition in C.R.P.No.221 of 2023 stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.02.2023

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Index : Yes
Speaking order
Neutral Citation : Yes

To

The Principal District Munsif,
Poonamallee.



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S.M.SUBRAMANIAM, J.

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