



C.R.P. No. 825 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P. No. 825 of 2023

and

C.M.P.No. 6295 of 2023

S.Rajalingam,
S/o. Soundarapandian

... Petitioner

Vs.

M.R.Rajagopal,
S/o. Rengaramulu

.. Respondent

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, to call for records and set aside the order dated 27.01.2023 passed in E.P.No. 21 of 2022 in RCOP. No. 6 of 2011 on the file of District Munsif Court, Nagapattinam.

For Petitioner : Mr.E.J.Ayyappan



C.R.P. No. 825 of 2023

WEB COPY

ORDER

Challenging the impugned order passed in the Execution Petition in E.P. No. 21 of 2022 in RCOP.No. 6 of 2011 passed by the trial judge, the tenant preferred this Civil Revision Petition.

2. Mr.E.J.Ayyappan, learned counsel for Revision Petitioner would submit that the alleged rental agreement relied by the respondent/landlord itself is a fabricated one and he is having valid defence to prove the same, but the execution court ordered for delivery of shops, which is unfair and the same is liable to be set aside.

3. On perusal of records, it reveals that the respondent filed a petition in RCOP.No.6 of 2011 against this petitioner on the ground of willful default and on the ground of owner's occupation in respect of the property in Old door Nos.3A and 4, New Door Nos. 4/1 and 6, in respect of two little shops at Periyakadai Street, Nagapattinam Town. The landlord also contested the matter and the Rent Controller passed an order of eviction, against which, he preferred an appeal in Rent Control Appeal in RCA.No. 11



C.R.P. No. 825 of 2023

of 2014, but the same was also dismissed on 05.08.2011 confirming the findings of Rent Controller. After that, to execute the order, the landlord filed an Execution Petition in E.P.No. 21 of 2022 for eviction. Now, challenging the eviction order, he preferred this Civil Revision Petition.

4. The main contention of the Revision Petitioner is that the alleged rental agreement is fabricated one, but on bare perusal of records, it reveals that this Revision Petitioner/tenant filed a petition for depositing the rent in R.C.O.P.No. 4 of 2011 before the District Munsif, Nagapattinam, which would prima facie shows that he challenged only the quantum of monthly rent arrived for two shops and not disputing the rent agreement. Therefore, the conduct of Revision Petitioner would show that he has already admitted the rental deed, now he is not entitled to challenge the same as fabricated one. Furthermore, all these defence are negated by the trial court, which needs no interference. However, on seeing the facts, he is in occupation of small shops nearly about two decades. Considering the same, this Court is inclined to grant three months time to vacate the premises, until then the decree holder is directed not to pay batta in E.P. Proceedings and after



C.R.P. No. 825 of 2023

completion of three months from today, if the property is not vacated and handed over possession, the decree holder is directed to proceed with the execution petition by paying batta. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

30.03.2023

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
rpp

To

District Judge,
Nagapattinam.



WEB COPY



C.R.P. No. 825 of 2023

T.V.THAMILSELVI, J.

rpp

C.R.P. No. 825 of 2023

30.03.2023