



WEB COPY

C.R.P.No.2818 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.2818 of 2022

and

C.M.P.No.15231 of 2022

1.Pazhaniyammal

2.Selvi

... Petitioners

Vs.

Saroja

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow this Civil Revision Petition and thereby set aside the *ex-parte* order of the Court below dated 22.12.2020 passed in E.P.No.98 of 2019 in O.S.No.301 of 2019 by the District Munsif cum Judicial Magistrate, Sendurai.

For Petitioners

: Mr.K.Gandhi Kumar

For Respondent

: Mr.S.Kamadevan



ORDER

The Civil Revision Petition has been filed against the *ex-parte* order dated 22.12.2020 passed in E.P.No.98 of 2019 in O.S.No.301 of 2019 by the District Munsif cum Judicial Magistrate, Sendurai.

2. The revision petitioner is the judgment debtor / tenant. The respondent/plaintiff instituted a suit for recovery of possession in O.S.No.301 of 2019 and the Suit was decreed in favour of the respondent/plaintiff. An *ex-parte* decree was passed, since the revision petitioners had not contested the Suit, despite service of notice. Thereafter, the respondent/decree holder filed Execution Proceedings in E.P.No.98 of 2019 and the Execution Court also granted sufficient time to the revision petitioners to contest the matter. Even thereafter, the revision petitioners had not availed the opportunity and contested the matter and consequently, the Execution Court passed an order on 22.12.2020, ordering delivery by 02.02.2021. The said order is under challenge in the present revision petition.

3. The learned counsel for the revision petitioners state that opportunity was not afforded to the revision petitioners and the principles of natural justice has been violated. The suit was decreed *ex-parte* and even in



the Execution Proceedings, delivery was ordered *ex-parte* and thus, the revision petition is to be considered.

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4. The learned counsel for the respondent/plaintiff objected the said contention by stating that sufficient opportunity was granted by the Trial Court to contest the Suit in O.S.No.301 of 2019. The revision petitioners remained absent and thus, an *ex-parte* decree was passed. Even after filing of the Execution Petition, the revision petitioners/ judgement debtor has not appeared and contested the matter, nor taken effective steps to set aside the *ex-parte* decree passed in the Suit filed in O.S.No.301 of 2019.

5. The fact remains that the *ex-parte* decree in the Suit became final and the Execution Court passed an order to deliver the possession of the Suit Schedule Property to the respondent / decree holder by 02.02.2021.

6. Admittedly, the revision petitioners are the tenants in possession of the subject premises for about seven (7) years. The respondent/ landlord filed a Suit for delivery of possession, which was decreed. Therefore, keeping these matters pending for a prolonged period would cause prejudice to the interest of the parties.



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7. Considering the facts and circumstances and taking note of the fact that the revision petitioners are tenants and ordered to be evicted by the Execution Court, this Court is not inclined to interfere with the orders passed by the Execution Court in E.P.No.98 of 2019. The Execution Court shall execute the said order by handing over delivery of possession to the respondent/ decree holder within a period of one (1) month from the date of receipt of copy of this order.

8. Accordingly, the Civil Revision Petition stands dismissed.
No costs. Consequently, the connected miscellaneous petition is closed.

05.01.2023

skr/kak
Index : Yes
Speaking order
Neutral Citation : Yes

To
The Judge,
District Munsif cum Judicial Magistrate,
Sendurai.



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S.M.SUBRAMANIAM, J.

skr/kak

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