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C.R.P.No. 1919 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.06.2023

PRONOUNCED ON : 06.07.2023

CORAM

THE HON'BLE Mrs. JUSTICE **R.KALAIMATHI**

C.R.P. No.1919 of 2023

and

CMP No.12169 of 2023

C.Ponnusamy

... Petitioner

Vs.

Muniammal (Deceased)

1. Renukadevi

Venkatesan (Died)

2. K.Govindhasamy

3. Ramani

4. Minor Yokesh

5. Minor Yuvasri

(Respondents 4 & 5 are minors

rep. by their next friend and mother

and natural guardian mother Ramani)

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of Code of Civil Procedure, to allow this Civil Revision Petition by setting aside the fair and decretal order dated 20.04.2023 passed by the XVI Judge, Small Causes Court, Chennai in E.A.No.3 of 2019 in E.P.No.451 of 2018 against RCOP No.215 of 2001.

For Petitioner : Mr.A.Amalraj

For Respondents : Mr.R.Ravichandran

ORDER



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This Civil Revision Petition is filed by the petitioner in E.A.No.3 of 2019 and the Judgment Debtor in E.P.No.451 of 2018 against the order passed in the above said Execution Application on 20.04.2023 by the XVI Court of Small Causes, Chennai.

2. An execution application was filed by the Judgment debtor Ponnusamy to reject the Execution Petition on the ground of non-arraying of themselves as parties with the leave of the Court in the place of Muniammal, the deceased Decree holder.

3. The Learned Execution Court, after hearing both sides arguments and upon perusing the entire records on merits, has held that the petitioner/Judgment debtor having not vacated the petition premises without any sufficient cause, squatting over the property without even paying the monthly rents, not taken steps to pay the monthly rents from the year 2003, the petitioner is not entitled for the relief claimed for and the petition was dismissed. Against which, the present Civil Revision Petition is filed against the order passed in the said E.A.No.3 of 2019 in E.P.No.451 of 2018 as mentioned supra by the Judgment Debtor.

4. The learned counsel appearing for the petitioner/Judgment



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Debtor would submit that the respondents herein, who are said to be the legalheirs of the deceased Muniammal, are not the legalheirs of the deceased Muniammal. Therefore, filing of Execution Petition by the said legalheirs amounts to the act of God against the petitioner. He would also further submit that the order of eviction was ordered on 23.07.2003 in R.C.O.P.No.215 of 2001 filed by the deceased Muniammal as against the petitioner/Judgment Debtor. Without seeking leave of Execution Court, the said Execution Application was filed and the order passed is incorrect.

5. Per contra, the learned counsel for the respondents would vehemently argue that the petitioner is a tenant, has no *locus standi* to file the petition. He filed the said petition in order to deprive the right of the owner of the petition premises and to grab the property. He would also stress upon the fact that the Judgment Debtor suffered a decree of eviction is still in occupation of the property, without paying any rent from 2003 onwards. After several grounds of litigations, the respondents were declared as legalheirs of the deceased Muniammal and prayed to dismiss the Civil Revision Petition.

6. Heard the rival submissions of both sides learned counsels.

Perused the materials available on record.

<https://www.mhc.tn.gov.in/judis>



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7. In the said Execution Application, no one was examined on either side and on the side of the petitioner eight documents were marked as Exs. P1 to P8. Whereas, on the side of the respondents four documents were marked as Exs.R1 to R4.

8. Originally one Muniammal, who is the owner of the above said property is not in dispute. She obtained an order of eviction against the Judgment Debtor, viz., Ponnusmy, the present petitioner herein as early as on 23.07.2003, before 10 years, in R.C.O.P.No.215 of 2001. Against the order of eviction, the petitioner/Judgment Debtor Ponnusamy had preferred an appeal in R.C.A.No.889 of 2004 and the same was dismissed as abated as landlord Muniammal died.

9. In the RCOP proceedings, the present respondents filed a petition in M.P.No.565 of 2006 sought permission to implead them as legalheirs of deceased Muniammal. It appears that the said petition was dismissed. The present respondents preferred revision against the said order in C.R.P.No.2255 of 2007 was also dismissed, with a permission to the respondents to substantiate their case by producing the original documents before the appropriate authority. Based on the said direction, an application vide M.P.No.370 of 2007 was filed by the present



respondents and it was ordered in their favour. The said order was challenged by the present petitioner Ponnusamy in C.R.P.(PD) No.562 of 2011 and the same is allowed and the matter was remanded back to the trial Court and the said M.P.No.370 of 2007, was allowed on 29.06.2011. This order was sought to be challenged by the Judgment Debtor Ponnusamy in C.R.P.No.4283 of 2011 and it was allowed in favour of the Judgment Debtors. Therefore, the present respondents preferred a Special Leave Petition (Civil) No.1125 of 2013 before the Apex Court. As per the order of the Hon'ble Supreme Court of India, they were granted liberty to seek for declaration of their status before the appropriate forum and the Special Leave Petition was dismissed as withdrawn on 24.01.2013.

10. It is relevant to note that, as per the order of the Apex Court, the present respondents filed a suit in O.S.No.3194 of 2012 before the City Civil Court, Chennai and the same was dismissed on 06.11.2013 and the appeal preferred in A.S.No.104 of 2014 was also dismissed on 25.09.2014. The present respondents herein preferred Second Appeal before this Court in S.A.No.1098 of 2015 and the same was allowed and remanded the matter to the trial Court with a direction to array the revenue officials in the said suit. The trial Court, on merits, decreed the suit by Judgment dated 07.09.2017 declaring the respondents are the legal heirs of the deceased Muniammal.



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11. The learned counsel for the petitioner/ Judgment Debtor was harp on the status of the respondents. After a long legal battle over a period of 15 years, the issue was put to an end and the respondents were declared as legal heirs of the deceased Muniammal. It is a settled principle of law that the Execution Court cannot go behind the decree. The status of the respondents has been finalised, rather it has reached finality. Therefore, the Judgment Debtor is not permitted to raise the contention that the present respondents cannot seek for any order based on the order of eviction.

12. The learned counsel for the petitioner would stress upon the doctrine of merger and would state that the order of the Hon'ble Supreme Court of India is merged with order of the Hon'ble High Court. As mentioned supra, the SLP was dismissed as withdrawn before the Apex Court. When that be the case, when the order passed by this Court prevails and the doctrine of merger never applies. As per the Judgment passed in the Second Appeal No.1098 of 2015, the suit in O.S.No.3194 of 2012 was filed by the present respondents and decreed in their favour. The Judgment Debtor by raising one after other bald allegations in order to squat over the property since 2003 and has dragged on the same by not



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vacating from the premises. Yet another petition is presently filed with bald contentions again trying to protract the eviction proceedings. The Execution Court, taking into consideration of both sides entire averments and arguments, has chosen to dismiss the petition. Based on the above said discussion and observations, this Civil Revision Petition is liable to be dismissed and thereby dismissed.

13. Accordingly, this Civil Revision Petition stands dismissed. The Execution Court is directed to dispose the Execution Petition within a period of two months from the date of receipt of a copy of this order. Consequently connected miscellaneous petition is closed. No costs.

06.07.2023

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Index:Yes/No

Internet:Yes/No

Speaking Order: Yes/No

To

The XVI Judge,
Small Causes Court, Chennai.



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R.KALAIMATHI, J

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