



WEB COPY



C.R.P.(NPD).No.3470 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

C.R.P.(NPD).No.3470 of 2023

and C.M.P.No.21555 of 2023

Venkatesan

... Petitioner

Vs.

T.M. Arumugam (died)

1.Chelliammal

2.J.J.Karthik

... Respondents

PRAYER: This Civil Revision Petition has been filed under Article 227 of Constitution of India, praying to set aside docket order, dated 11.08.2023, in R.E.P.No.8 of 2016 in R.C.O.P.No.2 of 2014 on the file of the District Munsif of Omalur.

For Petitioner : Mr.M.Elango

ORDER

The Revision Petitioner is the tenant and the respondent (T.M. Arumugam (died)) is the landlord in the R.C.O.P.

2. The brief facts of the case is that the respondent/landlord filed a RCOP in RCOP.No.2 of 2014 on the file of the District Munsif Cum



C.R.P.(NPD).No.3470 of 2023

Judicial Magistrate, Omalur seeking for eviction on the ground of Section 10(2)(i), 10(3) and 14 (1) (b) of the Tamil Nadu Buildings (Lease and Rent Control) Act. A final order was passed on 27.07.2015 directing the petitioner herein to vacate from the petition mentioned property.

3. Aggrieved over the said order, the petitioner preferred an appeal before the Rent Control Appellate Authority in R.C.A.No.1 of 2018 on the file of the Sub Court, Omalur and the same was dismissed on 01.03.2019. Thereafter, he preferred a Petition in C.R.P.No.2614 of 2019 and the learned Single Judge of this Court by an order, dated 29.10.2021 dismissed the Revision directing the petitioner/tenant to vacate the premises within a period of two months. Aggrieved over the said order, the petitioner/tenant had preferred this present Revision. During the pendency of the present Revision, the Execution Court had passed order, dated 11.08.2023 for eviction on or before 14.10.2023. Challenging the same, the Revision Petitioner has come forward with the present Civil Revision Petition.

4. Heard the learned counsel for the petitioner and perused the materials available on record.



C.R.P.(NPD).No.3470 of 2023

5. The petitioner herein had prolonged the matter to the extent from 2018 to till date under the guise of filing various application and C.R.Ps.

The E.P. itself was ordered in the year 2018. The owner who was 82 years old in the year 2019 had prayed for delivery of the property on the ground that he needs it for his own occupation. Now the learned counsel for the Revision Petitioner says that the said owner died and had filed the Revision Petition, whereas the Court had passed an order of delivery of possession by 14.09.2023. According to the petitioner, the Execution Court has not considered the fact that the first respondent died two years ago and that the original RCOP filed by the owner of the property for requirement of the land owner, is not a bonafied one and the impleaded respondents did not have any right in the E.P. Filed by the first respondent. The Review Petition filed in C.R.PNo.2614 of 2019 dated 29.10.2021 and is still pending for adjudication. The petitioner was not granted an opportunity and the order of the sub-Court, however, is against law and ordering eviction on the basis of presumption and assumption; and that the Court below has no jurisdiction to entertain the application filed by the respondent seeking for eviction.

6. All these stories are to be brushed aside by this Court as the suit was filed by one Venkatesan against Arumugam for not to evict by force or



C.R.P.(NPD).No.3470 of 2023

by any other means and except under due process of law. The R.C.O.P for eviction was ordered and the decree was passed on 27.07.2015 directing the petitioner to vacate the premises from 27.07.2015 to 26.08.2015 and handover the possession to the landlord, whereas, the Revision Petitioner has not chosen to handover the possession. E.P was filed in R.C.O.P.No.2 of 2014 for handing over the possession of the property to the decree holder under Order XXI Rule 35. Accordingly, the said E.P. was proceeded further. Meanwhile, he filed an appeal before the Sub-Court Omalur in A.No.1 of 2018. The Appellate Court also confirmed the orders of the R.C.O.P. Court and directed the tenant to hand over the possession.

7. The trial Court proceeded further on confirmation of the order dated 27.07.2015, meanwhile, the tenant filed a Revision Petition in C.R.P.No.2614 of 2019 and the same was dismissed vide order, dated 29.10.2021 by this Court stating that the Civil Revision Petition is dismissed. For better understanding, the relevant paragraph of the said order is extracted hereunder:-

“3. Considering the fact that the property is required for own occupation for the landlord with the bonafide intention and also observed that the tenant has not paid the rent regularly and



C.R.P.(NPD).No.3470 of 2023

WEB COPY

committed willful default. Further, at the time of passing of order, the landlord was aged about 82 years and the reason for his own purpose is bonafide one. Accordingly, R.C.A. was dismissed. Aggrieved that order, he has preferred this Revision Petition. At the time of enquiry, it was stated that there is arrears of rent and the revision petitioner has not taken any steps to deposit the rent inspite of the order passed in the R.C.O.P. proceedings. When the respondent has committed default, both the courts below have factually and legally considered the facts and dismissed the R.C.O.P. as well as R.C.A. filed by the Revision Petitioner, which requires no interference of this court. Accordingly, this Civil Revision Petition is dismissed as no merits. However, the Revision Petitioner is directed to vacate the premises within a period of two months 3/5 C.R.P. NPD No.2614 of 2019 from the date of receipt of copy of this order. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.”

8. When the landlord proceeded further in E.P., a Revision Petition alleged to have been filed by the tenant and the same is pending. The petitioner has not chosen to mention the same or bring it for hearing. Therefore, this Court is not inclined to accept the plea as there is no interim order granted by this Court in the Revision Petition and in the E.P. Court has proceeded further and directed the petitioner to hand over the possession of the property. From 2018, the petitioner has managed to escape from the clutches of law and lastly on 07.08.2023, the matter was posted to 14.09.2023, batta to be filed by the petitioner.

8. In view of the above discussions, this Court is not inclined with



C.R.P.(NPD).No.3470 of 2023

the order passed by the Execution Court in E.P.No.8 of 2010 and this Civil Revision Petition is dismissed as there are no merits and the legal heir of the said land lord namely Chellammal, his wife is entitled for recovery of the possession and the petitioner is directed to hand over the possession to the wife of the land lord viz.T.Arumugam on or before 14.10.2023. It is made clear that no further time will be granted to the Bailiff to execute the said warrant failing which the land lord is at liberty to get police protection to break open the said premise and take over the possession. No Costs. Consequently, connected miscellaneous petition is closed.

9. With the above direction, this Civil Revision Petition is disposed of.

21.09.2023

Index:Yes/No
Internet:Yes/No
Speaking Order/Non Speaking Order

gba

To

The District Munsif,
Omalur



WEB COPY



C.R.P.(NPD).No.3470 of 2023



WEB COPY



C.R.P.(NPD).No.3470 of 2023

V.BHAVANI SUBBAROYAN., J.

gba

C.R.P.(NPD).No.3470 of 2023
and C.M.P.No.21555 of 2023

21.09.2023