



C.R.P.No.3548 of 2023

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WEB C **T.V.THAMILSELVI**

Today, this matter is taken up for hearing under the caption “For clarification” at the instance of learned counsel respondent caveator.

2. On considering both side submissions, the earlier order passed by this court dated 30.10.2023 in the above Civil Revision Petition is reopened and the same is modified as follows :-

ORDER

This Civil Revision Petition has been filed to set aside the docket order dated 21.06.2023 passed by XIV Small Causes Court at Chennai in E.A.No.4 of 2023 in E.P.No.241 of 2020 on the file of XIV Small Causes Court at Chennai.

2. Before the executing Court, as a landlord, she filed a petition in R.C.O.P.No.1549 of 2010 for the relief of eviction against the respondents/tenants and the eviction was



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ordered. Subsequently, to execute the said order, the decree holder initiated execution proceedings in E.P.No.241 of 2020 before the XIV Court of Small Causes, Chennai, in which the respondents/tenants appeared and filed an application in E.A.No.4 of 2023 by invoking Section 47 r/w 151 CPC, praying to set aside the order passed in E.P.No.241 of 2010. That application was strongly objected by the decree holder stating that at an earlier occasion, the judgement debtors, who are father-in-law and son-in-law, have filed an application in E.A.No.1 of 2020 by invoking Section 47 CPC, for the same prayer rejecting the E.P.No.241 of 2020, that application was dismissed by the Executing Court on merits. Challenging the said order, they have filed a Civil Revision Petition in C.R.P.No.889 of 2021 and on hearing both sides, this Court dismissed the petition by imposing cost of Rs.10,000/-. The said cost was paid. Thereafter, the executing Court proceeded with the E.P and ordered for delivery on 13.02.2023. Again, another judgement debtor filed the aforesaid application under Section 47 CPC to set aside the



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execution proceedings. But, though the executing Court taken the application on file, adjourning the same on various dates and the same is pending without any progress. Aggrieved over the same, the Revision Petitioner preferred this Civil Revision Petition.

3. The learned counsel for Respondent would submit that before the Rent Controller, he filed an application in E.A.No.4 of 2023 under Sec.47 of C.P.C. stating that there is lot of illegalities in the decree. Hence, he raised objection to execute the decree. Though the earlier application filed under Sec.47 of C.P.C. was dismissed with cost, again he filed another application in E.A.No.4 of 2023 before the Executing Court to reject the petition in E.P.No. 241 of 2020. Having taken the application on file and the Executing Court adjourning the matter on various dates. Aggrieved over the same, the decree holder preferred this Revision Petitioner stating that already by invoking Sec.47 of C.P.C., the respondent filed a petition to reject the petition in E.P. No. 241 of 2020 and the same was dismissed by



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the Executing Court by imposing cost, but again the respondent filed another application on placing same ground in E.A.No.4 of 2023.

4. Records perused. On perusal of records, the respondent now preferred an application under Sec.47 of C.P.C. in E.A.No.4 of 2023. In fact, the respondents in E.P. are the judgement debtors, who are father-in-law and son-in-law and they have made all sort of hindrance to the decree holder as per the decree passed in E.P.No.241 of 2020. The learned counsel for respondent raised objections stating that in the Execution Petition filed by the Revision Petitioner, there is lack of particulars and the signature of decree holder also not proper. Therefore, he raised a valid defence disputing to execute the decree. Hence, he is entitled to file an application under Sec.47 of C.P.C. in E.A.No.4 of 2023 to reject the petition stating that there is a technical error in the decree passed in E.P.No. 241 of 2020. But on perusal of earlier order passed in C.R.P.No.889 of 2021, the judgement



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debtor preferred the said application. In fact, the application in E.A.No.1 of 2020 was filed under Sec. 47 of C.P.C. and the same was dismissed with cost. Against which, the judgement debtor preferred a Civil Revision Petition in C.R.P.No. 889 of 2021, in which, this Court elaborately discussed about the landlord and tenancy relationship between parties and a person, who received the rent is deemed to be landlord and also the other grounds, which he raised with regard to execution of decree as well as the signature found in the execution application, thereby all the facts are considered as invalid one and vexatious one. Accordingly, the Civil Revision Petition filed in C.R.P.No. 889 of 2021 was dismissed with cost of Rs.10,000/-. Considering the fact that the cost was paid and now again the first judgement debtor filed an application under Sec.47 of C.P.C. based on the same ground in E.A.No.4 of 2023. Therefore, now the Revision Petitioner has rightly approached the court without due process of law. Already in all the applications, the objections raised by the judgement debtor was already decided in E.A.No.4 of 2023. However, the



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earlier application itself, it seen that the application filed by the respondent is vexatious one and after paying the cost, again the judgement debtor filed another application under Sec.47 of C.P.C. is totally vexatious one as rightly pointed out by the learned counsel for revision petitioner. Accordingly, the application filed in E.A.No.4 of 2023 is liable to be dismissed. Furthermore, in all the proceedings, the tenant has committed default and already under Sec.11(4) petition, the learned Rent Controller ordered eviction, against which, the appeal preferred by the tenant was also dismissed and the decree passed by the rent controller was confirmed. Therefore, the reason raised by the judgement debtor that the decree is inexecutable as such is totally false one and vexatious claim. Therefore, this Civil Revision Petition is allowed and the Executing Court is directed to execute the warrant as early as possible. Time is granted to the respondent/judgement debtors to vacate the premises and hand over possession for the period of two months from the date of receipt of copy of this order. Accordingly, this Civil Revision



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Petition is allowed. Consequently, connected miscellaneous
petition is closed. No costs.

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T.V.THAMILSELVI, J.



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15.12.2023