



CRP. No. 3994 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM:

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

CRP No. 3994 of 2023
& CMP No. 24507 of 2023

Jesus The King Nursery and Primary School,
Snaga Educational Trust
Reb by its L.S. Saral, W/o Vinodkumar
No.1/3, Gandhi Nagar, First Street,
Saaththuma Nagar, Chennai - 600 019.

...Petitioner

Vs.

1.S.Sittrarasu
2.S.Jasindha

....Respondents

PRAYER : This petition filed under Section 115 of CPC to set aside the order dated 17.07.2023 passed in E.A No. 1 of 2020 in E.P No. 51 of 2019 in RCOP No. 2 of 2018 on the file of the District Munsif Court, Thiruvottiyur.

For Petitioner : Mr. S.S Rajesh
For Respondent : Mr. R.Rangarajan



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ORDER

WEB COPY This petition has been filed to set aside the order dated 17.07.2023 passed in E.A No. 1 of 2020 in E.P No. 51 of 2019 in RCOP No. 2 of 2018 on the file of the District Munsif Court, Thiruvottiyur.

2. The petitioner herein filed E.A No. 1 of 2020 in E.P No. 51 of 2019 in RCOP No. 2 of 2018 to stay all further proceedings in E.P No. 51 of 2019 in RCOP No. 2 of 2018. After considering the submissions on either side, the Court below dismissed the said application. Challenging the same the petitioner filed this petition.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The learned counsel for the petitioner submits that the petitioner has preferred RCA (SR. No. 9 of 2022) by challenging the exparte decree dated 10.06.2019 passed by the District Munsif Court, Thiruvottiyur in RCOP No. 2 of 2018. In the meanwhile, the Court below ordered for eviction as such as is unacceptable and liable to be set aside. Further, he argues that the Court below failed to take note of the fact that already they have filed suit for the specific performance which is pending before the Sub



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Court, Thiruvottiyur. Further, the School is running in the premises it cannot be vacated during the time of the academic year. Hence, he prays to allow this petition.

4. The submission of the learned counsel for the respondents is that the first respondent purchased the said premises in the year 1984 and thereafter, transferred the same in favour of his wife/second respondent. While so, the lease deed was entered between the petitioner and the second respondent for a period of ten years in year 2005 and the lease period was lapsed on 28.11.2015, as per the terms of the lease deed the tenant/petitioner is bound to hand over the property to the second respondent but he failed. Further, the petitioner is running the primary school in the said premises without getting proper permission from the Government. Therefore they committed wilful default and also denied the title. Besides, the respondents needs the premise for their own purpose. Notice was served on the petitioner but there was no reply from him. Thereafter RCOP was filed by the respondents and the petitioner was appeared through his counsel by filing objection thereafter the petitioner was absent and exparte order was passed on 10.06.2019 and also ordered of vacation. Challenging the exaparte order tenant taken steps to file the petition for condonation of delay but the same



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was dismissed. Furthermore, as on date, RCOP order is in force which shows that in order to drag on the proceedings the petitioner filed these petitions. Even as per the contention of the respondent/land lords the school is running without proper permission from the Government. Besides, their tenancy was terminated by the petitioner in the year 2016 and also there is no proof about the rent paid by the petitioner nor any steps taken by him to deposit the rent before any court of law but they contend that they entered into sale agreement with the respondent. Even assuming that same has not been complied by the petitioner further, he filed O.S No. 226 of 2023 before the Sub Court, Thiruvotriyur and as on date order passed in RCOP is in force, the conduct of the petitioner reveals that he filed this petition in order to drag on the proceedings with an ulterior motive. Therefore the above act reveals the malafide intention of the petitioner. Hence, the order passed by the executing Court needs no interference. Further, the petitioner is directed to vacate the premises within a period of eight weeks from the date of receipt of a copy of this order.

5. In the result. This petition is dismissed as no merits. No cost. Consequentially connected miscellaneous petition is closed.



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To

1. The District Munsif Court, Thiruvottiyur.

T.V.THAMILSELVI,J.

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