



C.R.P.No.4029 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM:

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

C.R.P.No.4029 of 2023
and
C.M.P.No. 24649 of 2023

Karthikeyan Educational and
Charitable Trust,
rep. by its President
Krishna Raj

... Petitioner

-Vs-

1. Jagadheeshan
2. Arunagiri

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 21.08.2023 passed in R.E.A.No. 10 of 2022 in R.E.P. No. 11 of 2015 in R.C.O.P.No. 05 of 2011 on the file of the District Munsif Court, Dharmapuri.

For Petitioner : Mr.S.Senthil



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ORDER

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Challenging the impugned fair and decreetal order passed in R.E.A.No.10 of 2022 in R.E.P.No.11 of 2015 in R.C.O.P.No.5 of 2011 passed by the learned District Munsif at Dharmapuri, the Revision Petitioner/1st respondent preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioner filed an application in R.E.A.No.10 of 2022 under Sec.47 of C.P.C. praying to dismiss the Execution Petition filed in R.E.P.No.11 of 2015 as it is an inexecutable decree. The reasons assigned by the tenant was that the learned Rent Controller has not properly appreciated the document Ex.P6 pertaining to G.O.Ms. No. 2000 and erroneously concludes that proper permission has not been obtained and also contended that the property is a vacant land, as such the rent control proceedings cannot be initiated and the lease deed also does not come under the Rent Control proceedings. But, without appreciating that legal proposition, the Rent Controller erroneously passed an order and based on that, the execution proceedings is initiated, as such the decree itself is inexecutable. Therefore, he prayed to dismiss the



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execution petition filed in R.E.P.No.11 of 2015. That application was strongly opposed by the 1st respondent/landlord and submitted that based on the counter objections, all these defence were taken by the tenant during the rent control proceedings and the same was rightly analysed by the learned Rent Controller and thereafter, the order was passed. So, only in order to drag on the proceedings, that application was filed. On hearing both sides, the learned Executing Court held that on perusal of records, the description of property given by the 1st respondent/landlord herein is correct and he has properly explained the reason for eviction and the same was rightly appreciated by the learned Rent Controller. Aggrieved over the said findings, the Revision Petitioner/1st respondent this Civil Revision Petition.

4. Records perused. On perusal of records, it reveals that the defence now taken by the Revision Petitioner/tenant was already submitted during the rent control proceedings and the learned Rent Controller has not properly appreciated the document Ex.P6 pertaining to G.O.Ms. No. 2000 and erroneously concluded that proper permission has not been obtained. Furthermore, the grounds assigned by the Revision Petitioner would not come under the question to be determined by the Executing Court under



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Sec.47 of C.P.C. But, the learned counsel for Revision Petitioner would submit that the Executing Court fails to appreciate the settled proposition of law and the entire facts would clearly establish that the decree obtained by the 1st respondent, as such is inexecutable. But, on perusal of entire records, he raised one of the defence about the validity of G.O., in fact the said G.O. was rightly analysed by the learned Rent Controller. If at all, the Revision Petitioner is having any grievance, they have to prefer an appeal, but as on date, they have not preferred any appeal, on the other hand, the Revision Petitioner filed an application under Sec.47 of C.P.C., but most of the grounds raised by him were already raised before the learned Rent Controller, as such the findings of the Executing Court needs no interference. Therefore, the decree passed by the learned Rent Controller is well-reasoned one and the same is confirmed. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

22.11.2023

Index : Yes/No

Speaking Order : Yes/No

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To

The District Munsif, Dharmapuri.



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T.V.THAMILSELVI, J.

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