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C.R.P.No.74 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-01-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CRP No.74 of 2023

And

CMP No.553 of 2023

Mr.Chandrasekaran

... Petitioner

VS.

1.Tmt.Subbulakshmi

2.Mr.R.Jayaseelan

Represented by his Mother and Natural
Guardian R.Subbulakshmi

... Respondents

The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the Docket Order passed in EP No.70 of 2022 and reversing the decree and judgment in RCOP No.30 of 2018 on the file of the District Munsif Court at Thiruvottiyur vide order dated 01.12.2022.



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For Petitioner : Mr.M.Sathish Kumar

ORDER

The present Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the Docket Order passed in EP No.70 of 2022 and reversing the decree and judgment in RCOP No.30 of 2018 on the file of the District Munsif Court at Thiruvottiyur vide order dated 01.12.2022.

2. The petitioner is the tenant and judgment debtor. The respondents, who are the landowners, instituted eviction proceedings in RCOP No.30 of 2018.

3. It is not in dispute that the RCOP was allowed and eviction was ordered. The petitioner-tenant is residing in the subject premises for the past about 19 years from the year 2003 onwards. Thus the respondents-decree holders filed EP No.14 of 2022 and the Execution Court allowed the Execution Petition, enabling the decree holders to enjoy the fruits of the decree passed in his favour. Challenging the said order dated 01.12.202, the



petitioner has chosen to file the present Civil Revision Petition.

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4. The learned counsel for the petitioner made a submission that the petitioner is running a Fast Food Shop in front of the premises and back portion of the premises is utilised by him as his residence. The petitioner is in occupation of the premises for the past about 19 years and therefore, he is ready to continue the tenancy by paying the amount as demanded by the landlords.

5. However, such request cannot be considered by this Court in the present Civil Revision Petition. More-so, when the decree holders filed an Execution Petition, which was allowed by the Execution Court. When the Execution Petition filed by the decree holders was allowed, enabling the decree holders to take possession of the property, the petitioner has not made out any acceptable ground for the purpose of considering the present Civil Revision Petition. As rightly contended by the Execution Court, the decree holders must be allowed to take possession of the property as they are the owners of the property.



6. The right of property is the constitutional right under Article 300-A of the Constitution of India. The right to property can be taken away only by due process and the authority of law. Thus, a person, who is the owner of the property, cannot be deprived of his right to enjoy the same and the right of the tenant is restricted with reference to the terms and conditions of tenancy agreed between the parties.

7. In the present case, the period of tenancy expired and the respondents-landlords instituted eviction proceedings in the year 2018. The petitioner is continuing in the premises without the consent of the respondents-landlords for the past more than 4 years. Thus, any further continuance of the revision petitioner in the premises would result in infringement of the landlords from enjoying the property, which is their constitutional right.

8. The learned counsel for the revision petitioner, on instructions from the revision petitioner, made an undertaking that the revision petitioner will vacate and handover the vacant possession of the property to the respondents-landlords on or before 30.04.2023, in view of



the fact that his children are studying in the School and the exams will be over by that time.

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9. In view of the undertaking given by the revision petitioner through his learned counsel, this Court is inclined to permit the petitioner to continue in occupation of the subject premises till 30.04.2023. Accordingly, the revision petitioner is directed to vacate and handover the vacant possession of the subject property to the respondents-landlords on or before 30.04.2023 and in the event of failure on the part of the revision petitioner in handing over the vacant possession of the property, the respondents-landlords are at liberty to file contempt application before this Court.

10. With the abovesaid directions, the present Civil Revision Petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

12-01-2023

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Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order



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S.M.SUBRAMANIAM, J.

Svn

To

The District Munsif,
District Munsif Court,
Thiruvottiyur.

CRP 74 of 2023

12.01.2023