



C.R.P(MD)No.1405 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **21.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1405 of 2023

and

C.M.P(MD)No.7028 of 2023

G.Ramesh

...Petitioner/Respondent/
Respondent

Vs.

R.Radhe Saravanaperumal
Represented by her Power of Attorney,
N.Raveendran

...Respondent/Respondent/
Petitioner

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed by the learned Principal District Munsif, Nagercoil in I.A.No.5 of 2022 in R.L.T.O.P.No.3 of 2020 on 05.04.2023.

For Petitioner : Mr.N.S.Karthikeyan

ORDER

The present Civil Revision Petition has been filed against the order passed by the learned Principal District Munsif, Nagercoil in I.A.No.5 of 2022 in R.L.T.O.P.No.3 of 2020 on 05.04.2023.



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2. The petitioner is the respondent in R.L.T.O.P.No.3 of 2020 filed by the respondent herein to evict the petitioner. The petitioner is aggrieved by the impugned order, dated 05.04.2023 in R.L.T.O.P.No.3 of 2020, whereby, the learned Principal District Munsif Court, Nagercoil as a rent Court had directed the petitioner to deposit the arrears of rent of Rs.2,04,350/- for the period covering June 2017 to June 2022 and subsequent rental arrears from July 2022 to April 2023 by 25.04.2023 and continue to pay monthly rent of Rs.3,350/- till the disposal of the above R.L.T.O.P.No.3 of 2020.

3. The Court has come to a conclusion that the petitioner and his brother, brother's wife and parents are continuing to occupy the property based on the report of the Advocate Commissioner, dated 31.03.2023. It is submitted that even though the respondent had not asked for an appointment of Advocate Commissioner, the Court had appointed an Advocate Commissioner, who has given an incorrect report without ascertaining the truth.



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4. That apart, the learned counsel for the petitioner submits that earlier the petitioner had filed R.C.O.P.No.28 of 2017 before the Rent Control Court under Section 9 for deposit of rent. However, the petitioner vacated the premises on 01.03.2020. Therefore, R.C.O.P.No.28 of 2017 was dismissed for not press for. It is therefore submitted that the impugned order directing the petitioner to deposit the aforesaid amount based on the report of the Advocate Commissioner is un-sustainable.

5. I have considered the arguments advanced by the learned counsel for the petitioner.

6. The relevant portion of the impugned order reads as under:

15. Further in Ex. C1 Commissioner's Report it is stated that the Respondent's father Ganesh and Respondent's mother Thangarathinam and Respondent's brother Sathish's wife Sathiya were present in the tenement at the time of Advocate Commissioner's visit and that the Respondent had took the premises under lease and made them to reside in the premises. Further it is also stated that at the 1st instance the said Sathiya had informed the Advente Commissioner as if Saravanaperumal had leased out the said tenement to her. At the 2nd instance, the said Sathiya had informed that the Respondent herein took lease of the tenement and allowed the occupants therein to reside.

16. Further even prior to appointment of Advocate commissioner in the above I.A., passed order dated



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13.02.2023 in the main R.L.TO.P. directing the Respondent to appear before this Court in person on 20.02.2023. Thereafter the above case was adjourned to 20.02.2023, 25.02.2023, 27.02.2023, 06.03.2023 and 31.03.2023, the Respondent had not appeared before this Court in person.

17. Further the Petitioner's claim that the Respondent had not vacated the tenement is corroborated by the Advocate Commissioner's report and photographs and Electricity Consumption Metre Reading Card. The Commissioner's report and photographs and the electricity service connection card pertaining to the tenement discloses that the tenement is in the occupation of the Respondent and that he had kept his parents and family members as occupants in the tenement. Since the Respondent had admitted of coming into the premises as tenant, it is the statutory obligation of the Respondent to pay rent, until he vacates the premises.

7. That apart, in Paragraph No.18 of the impugned order, it is stated as follows:

18. Further though the Respondent had pleaded as follows: "The respondent had been the tenant of the petition scheduled property till before 01.03.2020 and now the respondent not residing in the petition scheduled building. The Respondent on 01.03.2020 by paying all the arrears to Mr. Saravanaperumal, who is the husband of the petitioner Mrs.Rädhe and vacated the building.", The said pleading is disproved by the Petitioner corroborated by Ex. C1, C2 and C3. As such the Respondent is liable to pay the rental arrears of Rs.2,04,350/- (Rupees Two Lakhs and Four Thousand and Three Hundred and Fifty Only) being the rental arrears for the period covering from June 2017 to June 2022 and the subsequent rent arrears from July 2022 to till date.



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8. Thus, the position of the petitioner that the petitioner has vacated the premises from 01.03.2020 *prima facie* appears to be incorrect. In any event, the petitioner has been directed to pay the arrears of rent only for the period from June 2017 to June 2022. Admittedly for which period there is no proof that the petitioner has paid the rent to the respondent. Therefore, there is no merit in challenge to the impugned order.

9. The present Civil Revision Petition stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

21.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The District Munsif Court,
Nagercoil.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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