



C.R.P.(MD)No.2208 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.10.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2208 of 2023
and
C.M.P.(MD)No.11244 of 2023

R.M.T.S.S.Senthooor : Petitioner/Petitioner/3rd Party
3rd Party

Vs.

1.R.M.T.S.S.S.uriyakumar : 1st Respondent/1st Respondent/
Petitioner/Petitioner

2.Ponraj : 2nd Respondent/2nd Respondent/
Respondent/Respondent

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records pertaining to the order passed in E.A.No.1 of 2023 in E.P.No.2 of 2018 in H.R.C.O.P.No.2 of 2004 on the file of the Distrcit Munsif cum Judicial Magistrate Court, Kamuthi, Ramanathapuram District, dated 15.06.2023 and set aside the same.

For Petitioner : Mr.R.Babu Jaganath

For Caveator : Mr.V.Prakash, for R1.



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ORDER

The Civil Revision Petition is directed against the order passed in in E.A.No.1 of 2023 in E.P.No.2 of 2018 in H.R.C.O.P.No.2 of 2004, dated 15.06.2023, on the file of the District Munsif cum Judicial Magistrate Court, Kamuthi, Ramanathapuram District, dated 15.06.2023, dismissing the petition filed under Order 47 C.P.C.

2. Admittedly, the first respondent has filed an eviction petition against the second respondent in H.R.C.O.P.No.2 of 2004 and obtained eviction order. Since the tenant has not complied with the eviction order, he has filed an execution petition in E.P.No.2 of 2018 and the same is pending. When the execution proceeding is pending, the petitioner, who is the brother of the first respondent, has filed the claim petition alleging that he is also the owner of the property and without impleading him and without his knowledge, the rent control proceeding came to be initiated by his brother.



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3. Since the eviction was already ordered and the execution proceeding is pending, the Executing Court is not expected to go into the right or title claimed by the petitioner and it is for him to sort out his remedy against the first respondent before the appropriate forum.

4. On perusal of the entire records, it is clearly evident that there existed some collusion between the first respondent and the petitioner and on that basis, the above petition came to be filed only to protract the executing proceedings and that thereby preventing the decree holder from realizing the fruits of the eviction order obtained earlier. Hence, this Court concludes that the Civil Revision Petition is devoid of merits and the same is liable to be dismissed.

5. In the result, the Civil Revision Petition is dismissed.
Consequently, connected Miscellaneous Petition is closed. No costs.

19.10.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das



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To

- 1.The Distrcit Munsif cum Judicial
Magistrate Court, Kamuthi, Ramanathapuram District.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Order made in
C.R.P.(MD)No.2208 of 2023
and
C.M.P.(MD)No.11244 of 2023

Dated : 19.10.2023