



C.R.P(MD)No.2531 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.2531 of 2022

and

C.M.P(MD)Nos.12432, 12434 & 12435 of 2022

Sulthan Ibrahim

... Petitioner/Petitioner/
Appellant

Vs.

1.The Secretary,
Jumma Thozhugai Pallivasal,
Samayanallur,
Madurai.

2.The Estate Officer/Chief Executive Officer,
Wakf House,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-600 001.

... Respondents/Respondents/
Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 17-10-2022 in I.A.No. 1906 of 2022 in C.M.A.No. 44 of 2022 on the file of the Principal District Court at Madurai.

For Petitioner : Mr.S.Ramesh

For R1 : Mr.Babu Rajendran



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ORDER

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The present revision petition has been filed challenging an order of granting status quo by the Principal District Court, Madurai in I.A.No. 1906 of 2022 in C.M.A.No.44 of 2022.

2. According to the learned counsel appearing for the petitioner, the revision petitioner is in possession of the property in dispute in his own right. However, the respondents 1 and 2 have branded the petitioner as a tenant and initiated proceedings under the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act 1975. Without properly appreciating the contentions of the revision petitioner, an order of eviction came to be passed by the Estate Officer on 06.09.2022. Challenging the same, the revision petitioner had filed C.M.A.No.44 of 2022 on the file of Principal District Court, Madurai. Along with the said appeal, the petitioner had filed I.A.No.1906 of 2022 for granting stay of operation of the order passed by the Estate Officer.

3. According to the learned counsel for the petitioner, in the stay petition, the 1st respondent Pallivasal has entered appearance on 16.09.2022 and took time to file counter. However, the learned standing



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counsel appearing for the 2nd respondent (Wakf Board) after entering appearance on 17.10.2022, filed a memo to the effect that possession has already been taken from the petitioner on 14.10.2022. Considering the fact that possession is said to have been taken by the Wakf Board, the learned Principal District Judge has passed an order of status quo not to disturb the movables of the petitioner which are within the disputed property. This order is under challenge in the revision petition.

4. According to the learned counsel appearing for the petitioner, the 1st respondent having entered appearance on 16.09.2022, ought not to have proceeded with the execution of the order passed by the Estate Officer, especially when they have taken time to file a counter before the learned Principal District Judge. He further contended that on the one hand, the 1st respondent Pallivasal had entered appearance so as to prevent the appellate authority from passing interim orders, but, on the other hand, had colluded with the 2nd respondent to take possession of the disputed premises. The 2nd respondent has chosen to enter appearance only after taking possession on 14.10.2022. He submitted that the act of collusion between the respondents 1 and 2 is nothing but to interfere in the process of adjudication of the matter. He further contended that the



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petitioner should have been restored with the possession and the order of status quo will affect the rights of the revision petitioner.

5. The learned counsel appearing for the petitioner has further contended that when notice has been ordered in the stay petition, the respondents ought not to have rushed to take possession of the property, especially when the revision petitioner is disputing the title of the Board and claims to be in possession of the property on his own right. Hence, he prayed that the order of status quo should be set aside and his possession should be restored to the disputed property. He further gives an undertaking that he would hand over the possession, in case, if he is not able to succeed before the appellate authority. Hence, he prayed for setting aside the order of status quo.

6. Per contra, the learned counsel appearing for the 1st respondent herein had contended that the 1st respondent represents only the Pallivasal, who is the beneficiary of the eviction order. According to him, the eviction order passed by the Estate Officer has been carried out by the Wakf Board and not by the Pallivasal. Hence, the Pallivasal which is arrayed as the 1st respondent before the appellate authority cannot be



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blamed for taking possession, pending stay petition. He further contended that the Wakf Board remained ex parte in the stay petition and they have entered appearance only on 17.10.2022 in the main appeal with an application to set aside the ex parte order. Therefore, even the Board cannot be blamed for taking possession on 14.10.2022. Therefore, he prayed that the order of status quo may be sustained. He further contended that records have been received by the appellate authority from the Estate Officer and the appeal could be disposed of expeditiously.

7. I have carefully considered the submissions made on either side.

8. The main contention on the side of the revision petitioner is that while notice has been ordered in the stay petition and one of the respondent has already entered appearance, they ought not to have rushed to implement the orders impugned in the appeal. It is an admitted fact that stay order is yet to be granted by the appellate authority. The 2nd respondent/Wakf Board is the authority to implement the order passed by the Estate Officer. They have entered appearance only on 17.10.2022. Even before entering appearance, they have taken delivery of possession



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from the revision petitioner herein. Hence, the 2nd respondent Board cannot be blamed for taking possession when there is no interim order passed by the appellate authority. As far as the 1st respondent is concerned, they are only landlord and they cannot represent the 2nd respondent Board. In view of the above said facts, I do not find any illegality or infirmity in the order of status quo passed by the learned District Judge.

9. The appellate authority has already received the records from the Estate Officer and the matter is ready for arguments. In view of the above said facts, the learned District Judge is directed to dispose of C.M.A.No.44 of 2022 as expeditiously as possible.

10. With the above said observations, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

13.02.2023

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

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To

- 1.The Principal District Court,
Madurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
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