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C.R.P.[NPD]No.446 of 2024
and C.M.P.No.2131 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.[NPD]No.446 of 2024
and C.M.P.No.2131 of 2024

S.Babu

.. Petitioner

Vs.

Nehru

.. Respondent

Prayer: Civil Revision Petition filed under Section 115 of the code of Civil Procedure, against the order dated 12.01.2024 made in E.A.No.3 of 2023 in E.P.No.44 of 2018 in RCOP.No.14 of 2014 on the file of the Rent Controller/District Munsif Court, Gudiyattam.

For Petitioner : Mr.N.Manoharan

For Respondent : No Appearance

ORDER

This Civil Revision Petition has been filed seeking to set aside the order dated 12.01.2024 made in E.A.No.3 of 2023 in E.P.No.44 of 2018 in



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RCOP.No.14 of 2014 on the file of the Rent Controller/District Munsif Court, Gudiyattam.

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2.The facts of the case is as follows:

The challenge has been made by the Revision Petitioner against the order passed in the application filed by the petitioner under Section 47 CPC, seeking to dismiss the execution petition in E.P.No.44 of 2018, which has been filed for execution of the order passed in rent control proceedings in R.C.O.P.No.14 of 2017. However, the Executing Court negated the relief. Challenging the same, the present Civil Revision Petition has been filed.

3.Learned counsel appearing for the petitioner submitted that the final order passed in the rent control proceedings, did not specifically mention about the schedule of the property. As far as the execution of the decretal order passed in rent control proceedings, the procedure contemplated under Section 18 CPC would be applicable. As per Section 51(a) CPC and Order 21 Rule 11 (2)(j), only delivery could be accepted and the same provision is



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also stated in Order 21 Rule 9 CPC. Therefore, it is the contention of the learned counsel for the petitioner that in order to execute any decree of the Court, it should contain the details of the property specifically. However, in the final decretal order passed by the Rent Controller, the identity of the property has not been specifically mentioned, therefore, he would contend that the decree passed in RCOP, is not enforceable and this aspect has not been considered by the Executing Court. Hence, he would urge this Court to set aside the order passed by the Executing Court.

4.Though the name of the learned counsel for the respondent is printed in the cause lists, there is no representation on behalf of the respondent.

5.Heard the learned counsel appearing for the petitioner and perused the entire material on record.

6.Upon perusal, it is seen that the decretal order dated 06.12.2017 has been passed in R.C.O.P.No.14 of 2014, directing the petitioner herein to



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vacate the petition mentioned property on or before 06.02.2018. Though there is no door numbers whatsoever given, the fact remains that the application has been filed by the landlord/respondent for eviction of the premises, which were rented out to the tenant/Revision Petitioner. In the entire R.C.O.P proceeding, particularly, in the counter filed, nowhere the revision petitioner disputed the identity of the premises from which he was sought to be evicted, except disputing that there is no willful default and he is not liable to be evicted. When the parties in the *lis* clearly understood the issue and particularly the eviction is sought only in respect of the premises under the occupation of the tenant, now before the Execution Court, the plea cannot be taken by the tenant that since there is no specific mention about the identity of the property, as such, the decretal order cannot be enforced, when the decretal order clearly directed the petitioner to vacate the petition mentioned property. Therefore, the provision mentioned by the learned counsel for the petitioner under Section 51(a) and Order 21 Rule 11 (2) (j) CPC will not come to his aid.



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7.The very provision deals with delivery of any property what was decreed by the Rent Controller, i.e. eviction of the petitioner/tenant from the petition mentioned property which is admittedly now in the occupation of the judgment debtor. In fact, the petitioner/tenant, has allowed the RCOP proceedings to be ordered in favour of the respondent/landlord by remaining himself *ex parte* in the RCOP proceedings and later, though he filed the application to set aside the *ex parte* order, dated 27.01.2019, the same came to be dismissed, against which, he preferred a Revision before this Court in CRP No.343 of 2020, which also came to be dismissed. Therefore, the eviction order passed in RCOP has become final. Therefore, finding no other option, it appears that the petitioner came forward with a technical plea that the identity of the property has not been specifically mentioned in the schedule of property, which was rightly rejected by the Executing Court on the ground that the decree is in conformity with the order as per Order 20 Rule 6 CPC.



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8. Therefore, this Court does not find any merits in the present case.

Hence, the Civil Revision Petition is dismissed. No costs. Consequently,
connected miscellaneous petition is closed.

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rst

Index : Yes/No

Internet: Yes/No

Speaking/Non-Speaking Order

To:

The Rent Controller/District Munsif Court,
Gudiyattam.



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N.SATHISH KUMAR, J.

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