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C.R.P.NPD.No.1825 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.NPD.No.1825 of 2022 and
C.M.P.No.9358 of 2022

Dhanasekar

... Petitioner

Vs.

A.Jayabharathi

.. Respondent

PRAYER: Revision filed under Article 227 of the Constitution of India praying to set aside the fair and final order dated 13.04.2022 made in E.P.No.47 of 2018 in R.C.O.P.No.3 of 2015 on the file of the Court of the District Munsif, Pollachi.

For Petitioner : Mr.Vikram Kumar. P

For Respondent : Mr.B.Bharathkumar
for Mr.V.Nicholas

ORDER

The present civil revision petition challenges the order of delivery passed by the learned Rent Controller cum District Munsif, Pollachi in E.P.No.47 of 2018 in R.C.O.P.No.3 of 2015.

2. The undisputed facts are that the petitioner was a tenant under one M.S.Viswanathan Chettiar. He would state that he was a tenant for



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over 35 years paying a monthly rent of Rs.100/- which was revised periodically and finally, the rent payable at the time of initiation of the proceedings was Rs.750/-. The suit property was purchased by the respondent herein from Viswanathan Chettiar and she demanded payment of rents. However, instead of paying the rents to the respondent, it is the case of the petitioner that he continued to pay the rents to Pragatheswaran, son of Viswanathan Chettiar. Hence, the respondent initiated execution proceeding in R.C.O.P.No.3 of 2015, on the file of the Rent Controller at Pollachi.

3. After full contest, the learned Rent Controller ordered eviction on 20.02.2018 against which the petitioner claims that he preferred an appeal in R.C.A.C.F.R.No.10773/2018. He had also moved, since the appeal was out of time, an application to condone the delay of 80 days in filing the same. The said application was numbered as I.A.No.147 of 2018. The appeal is still pending in the stage of condonation of delay.

4. Having waited sufficiently, the decree holder moved an application for execution in E.P.No.47 of 2018. Delivery was ordered by the Court after four years on 13.04.2022. Challenging the same, the present civil revision petition has been filed.



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5. Mr.Vikram Kumar for the petitioner would submit that since the petitioner has been agitating his rights in the Appellate Court, delivery ought not to have been ordered by the Executing Court.

6. Mr.Bharathkumar for the respondent would state that the Executing Court did not order delivery immediately but it waited for a period of 4 years. As no orders of stay of eviction had been produced, delivery had been ordered by the learned Rent Controller. He would state that the tenant has not paid rents from the date of purchase by the present decree holder and therefore if the order of delivery is set aside, his client, who is a subsequent purchaser would be put serious prejudice.

7. I have carefully considered the arguments on either side.

8. It is not in dispute that an eviction had been ordered by the learned District Munsif cum Rent Controller, Pollachi as early as on 20.02.2018. As on today, there are no orders of stay granted by the Appellate Authority or by any other forum keeping the decree in abeyance. Nevertheless the Executing Court had waited for a period of 4 years and only thereafter had ordered delivery. The argument of



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Mr.Vikram Kumar that since I.A.No.147 of 2018 is pending before the Rent Control Appellate Authority, the Rent Controller ought not to have been ordered delivery does not appeal to me. Mere pendency of an appeal or an application for condonation of delay does not mean the Executing Court should keep the proceedings in abeyance. The Executing Court as pointed out by Mr.Bharathkumar has given sufficient opportunities for the judgment debtor and it is only thereafter delivery had been ordered. I do not find any error or irregularity in the proceedings adopted by the learned Executing Court warranting interference under Article 227 of the Constitution of India. Hence, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

02.04.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation : Yes / No

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The District Munsif,
Pollachi.



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V.LAKSHMINARAYANAN, J.

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