



C.R.P.[NPD].No.4839 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 27.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.4839 of 2024 and CMP.No.27008 of 2024

P.Sudharshan

... Petitioner

Versus

D.Thirunavvukkarasu
Respondent

...

PRAYER : Petitions filed under Section 115 of Code of Civil Procedure, to set aside the order passed in E.A.No.134 of 2018 in E.P.No.604 of 207 in RCOP.No.366 of 2016 dated 26.04.2024 on the file of XI Small Causes Court at Chennai.

For Petitioner : Mr.Mahesh Kumar

ORDER

Challenging has been made to the impugned order passed by the



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Executing Court dismissing the application filed by the judgment debtor/tenant claiming his article worth about 70 lakhs from the petition premises which has been taken possession by the Amin in pursuant to the warrant issued by the Court in executing the order passed in the rent control proceedings in RCOP.No.366 of 2016.

2. The revision petitioner was inducted as a tenant under the respondent on a monthly rent of Rs. 2 lakhs. On the ground of willful default, the respondent initiated rent control proceedings in the above RCOP and the said petition was decreed set exparte and delivery was ordered by the Trial Court and the delivery was effected on 07.02.2018 by the Amin in pursuant to the warrant. Thereafter, an application has been filed by the revision petitioner in E.A.No.134 of 2018 seeking for return of the articles worth about Rs.70 lakhs. According to him, even before delivery, he was precluded from continuing the business on 31.05.2017, the possession of the property was taken by the landlord without his knowledge and he has kept the articles worth about Rs.70 lakhs in the premises. It seems that all the



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articles have been removed by the landlord. Therefore, sought to return of the articles worth about Rs.70 lakhs. Such application has been opposed by the landlord. After considering the contradictory stand and evidence of the Amin and the petitioner, the Trial Court dismissed the application. Challenging the same, the revision.

3. The learned counsel for the petitioner would mainly submit that the revision petitioner was running hotel and he had articles worth about 70 lakhs including Genset, split AC, tables and chair. Though the delivery was taken later, in fact, he has not continued his hotel business from May 2017 itself. At this stage, the respondent has removed all his articles. Therefore, he seeks return the articles and submits the order of the Trial Court is not proper. Hence, seeks to allow this revision.

4. Heard the learned counsel for the petitioner and perused the materials placed on record.



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5. Though it is stated by the petitioner that he was precluded from continuing his business from the month of May 2017 and his articles worth about Rs.70 lakhs were removed from the premises, the Court has rightly found that the above statement is totally contradictory, wherein, earlier, he has taken a stand that article is about Rs.15 lakhs and the same has been admitted in one of his pleadings in the counter. That apart, this Court also finds that though he has stated that on 31.05.2017, he was not allowed to continue his business. In his evidence, he has categorically admitted in the cross examination that he has handed over the entire possession to the respondent in the month of July 2017 and keys were also handed over. His only grievance is that acknowledgment has not been given by the respondent. Thereafter, the delivery has been recorded through the Amin.

6. Though a stand has been taken as if he has not taken back his articles, such stand is totally against the normal human conduct. When a person consciously appears to have handed over the possession of the



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property along with the keys, the prudence demands that all his articles are to be taken back. No prudent man would allow articles worth about Rs.70 lakhs to be used by the landlord. This one ground is sufficient to disbelieve the petitioner's contention. That apart, Amin is also examined before the Trial Court, wherein, he has clearly recorded the entire delivery and videographs is also taken, which is also marked in the Trial Court. That apart, list of articles found in the premises is also noted by the Amin. According to the Amin, those articles found in the premises are not in working conditions. Therefore, list has been drawn and for safe custody articles were handed over to the respondent.

7. Such being the matter, as a matter of right, now the petitioner after a lapse of many years cannot contend that the worth of the articles is more than 70 lakhs.

8. Therefore, I do not find any infirmity in the order passed by the Court below and accordingly, this revision stands dismissed. No costs.



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Consequently, connected miscellaneous petition stands closed. It is made clear that the respondent/landlord shall return all the articles seized during the delivery by the amin and handover to his custody within a period of six weeks from today.

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Index : Yes / No
Internet: Yes / No
Speaking/non speaking order

dhk

To
The XI Judge
XI Small Causes Court, Chennai



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N. SATHISH KUMAR, J.

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