



CRP(MD)No.640 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.08.2024

Delivered on : 21.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRP(MD)No.640 of 2024
and
CMP(MD)No.3184 of 2024

Anjalai

...Petitioner/Respondent/Tenant/Judgment Debtor

vs.

K.Komagan

... Respondent/Petitioner/Decree Holder/Landlord

PRAYER : Petition filed under Article 227 of the Constitution of India, to strike off the E.P.No.2/2023 in Petition No.147/2013 on the file of the Special Deputy Collector/the Revenue Court, Tiruchirappalli.

For Petitioner : Mr.Shankar Murali
For Respondent : Mr.C.Vakeeswaran

ORDER

This Civil Revision Petition is filed to strike off the Execution Petition in E.P.No.2 of 2023, on the file of the Special Deputy Collector/The Revenue Court, Tiruchirappalli.



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1.1 The Execution petition is filed to execute the decree passed by the Revenue Court in Petition No.147 of 2013. The petition is filed by the landlord to evict the cultivating tenant as per the provisions of the Tamilnadu Cultivating Tenants Protection Act, 1955.

2. The petition was filed on the ground that for three consecutive years from 2010 - 2013, the tenant miserably failed and committed to pay the rent to the landlord. The said petition was contested on various grounds including on the sub-division of the revenue survey number etc. The Court rejected the defence and noted that in spite of repeated opportunities granted the arrears were not deposited. Even the interim order granted on condition to deposit 50% of the arrears was also not complied with and as such after considering all the relevant materials and circumstances, passed an order of eviction dated 11.02.2019.

3. Even thereafter, the petitioner did not vacate and the execution petition was filed. This revision is filed to strike off the execution petition.



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4. Heard *Mr.Shankar Murali*, the learned counsel appearing on behalf of the petitioner and *Mr.C.Vakeeswaran*, the learned counsel appearing on behalf of the respondent.

5. *Mr.Shankar Murali*, the learned counsel would contend that the act mandates that an opportunity should be given to the tenant to deposit the arrears of rent. If an opportunity is granted, the petitioner is ready to deposit the entire arrears of rent. Therefore, the execution that is proceeded without affording the mandatory opportunity as provided under the act is liable to be struck off.

6. Per Contra, *Mr.C.Vakeeswaran*, the learned counsel would rely upon the Judgment of this Court in the earlier round between the same parties in C.R.P.(PD)(MD) Nos. 889 and 890 of 2019 to contend that even in the earlier round the self-same contention is negatived.

7. I have considered the rival submissions made on either side and perused the material records of the case.



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8. As per Section 3(3) of the Act, an option is granted to the Cultivating Tenant to deposit the rent in revenue court. In the instant case, the petitioner has not availed the same. Thereafter, under Section 3(4) if an eviction is sought, then also, the petitioner can deposit the rent. The same was also not done. On the other hand, the proceedings were contested on several technical grounds. The Revenue Court thereafter has also passed a decree of eviction. Once the decree of eviction is passed, there is no right envisaged under the Act.

9. In the earlier round of litigation between the parties, this Court, speaking through Hon'ble Mr. Justice S.S. Sundar, had by the judgment dated 14.09.2020 in C.R.P.(PD)(MD) Nos. 889 and 890 of 2019, took note of the Judgment of the Hon'ble Supreme Court of India in ***Chinnamarkathian @ Muthu Gounder and another -Vs- Ayyavoo @ Periyanna Gounder and others (1982 1 MLJ 159)*** and elucidated the legal position that if only the tenant deposits the rent as envisaged under Section 3(3) it will be a matter of right and in later stages it would only be the discretion of the Court. This Court further considered the facts and circumstances of the instant case and refused to exercise discretion in favour of the petitioner considering the nature of default. Therefore, this civil revision petition which is again filed at the Execution Stage raises only the point that is



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already decided by this Court between the same parties and as such, the plea itself is barred by *res-judicata*.

10. The petitioner had not shown any *bonafide* to deposit any amount and the plea is repeatedly made just to drag on the matter. In any event, the petition for eviction was filed in 2013. Now, 11 years have gone by and no discretionary relief can be granted to the petitioner/cultivating tenant who has been enjoying the respondent's property without even paying rent all these years. The Civil Revision Petition is vexatious and an abuse of the process of law.

11. In the result the Civil Revision Petition is dismissed. The petitioner shall pay a costs of Rs.500/- to the respondent. Consequently, connected miscellaneous petition is closed.

21.08.2024

NCC : No
Index : No
sjj

To

The Special Deputy Collector/the Revenue Court, Tiruchirappalli.



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D.BHARATHA CHAKRAVARTHY,J.

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Pre-Delivery Order Made In
CRP(MD)No.640 of 2024

DATED : 21.08.2024