



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.09.2024

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.R.P(MD)No.1908 of 2024
in
C.M.P(MD)No. 10819 of 2024

S.Saraswathi

... Petitioner

Vs.

1. K.Dhivya Boobathi

2. K.Sundar Prasath

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 115 of Civil Procedure Code, to call for the records relating to the impugned E.A.No.20 of 2024 dated 25.06.2024 in E.P.No.10 of 2023 on the file of the I Additional District Munsif Court, Madurai Town in R.C.O.P.No.230 of 2007 on the file of the District Munsif Court, Madurai Town and set aside the same as illegal.

For Petitioner : Mr.V.P.Rajan

For Respondents : Dr.D.Gnanasekaran

ORDER

This Civil Revision Petition is filed to quash the impugned order passed in E.A.No.20 of 2024 dated 25.06.2024 in E.P.No.10 of 2023 on the file of the I Additional District Munsif Court, Madurai Town in R.C.O.P.No.230 of 2007 on the file of the District Munsif Court, Madurai Town.



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2. The Tenant is the Civil Revision Petitioner and the Landlords are the Respondents herein. For the sake of convenience, the contesting parties shall be referred to as Tenant and Landlords.

3. The Landlords had filed R.C.O.P No.230 of 2007 to evict the tenant on the ground of default in paying rent. After hearing the submissions of the parties, the Court below has allowed the RCOP, vide Order, dated 31.07.2017. Aggrieved over the same the tenant has preferred R.C.A.No.42 of 2017, even though the Appeal is filed in time, the tenant has not prosecuted the appeal and the said appeal was dismissed for default on 24.11.2020. After dismissal of the RCA the Landlords has preferred E.P.No. 10 of 2023 to execute the decree immediately. Thereafter, the tenant has preferred E.A.No.20 of 2024 stating that the Appeal in RCA is pending. However, the Appellate Court had verified the status of the RCA and it was found the said RCA was dismissed on 24.11.2020. Hence, the said E.A. No. 20 of 2024 was also dismissed. Aggrieved over the same, the tenant has preferred this Civil Revision Petition.

4. On perusal of the records, it is seen that the tenant has preferred the appeal, but the tenant had left the appeal for default. Hence the appeal



was dismissed for default on 24.11.2020. Thereafter, the tenant had filed an application in E.A.No.20 of 2024 stating the RCA was pending. When the status of the case was ascertained, it was found the appeal was dismissed and the statement of the tenant was incorrect. Further the tenant had not filed any application to restore the appeal filed in RCA. Hence it is evident that the tenant's statement is incorrect and in order to drag on the proceedings, the tenant had filed E.A.No.20 of 2024. Therefore, this Court is not inclined to entertain this Civil Revision Petition.

5. The Learned Counsel appearing for the Tenant submitted that the building was let out for commercial purpose. But the Learned Counsel appearing for the respondent landlords submitted that as on date the building is in dilapidated condition and the tenant is not using the building. Therefore, the tenant is directed to vacate the premises and handed over possession to the Landlord on or before 30.09.2024.

6. Accordingly, this Civil Petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.



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7. Post the matter for reporting compliance on 14.10.2024.

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Index : Yes / No
Internet : Yes
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1. The I Additional District Munsif Court,
Madurai Town.
2. The District Munsif Court,
Madurai Town.



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S.SRIMATHY, J

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Order made in
C.R.P(MD)No.1908 of 2024

11.09.2024