



C.R.P.(PD)(MD).No.2897 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

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1.Mrs.Mariyae

2.Mr.Govindarajan

... Petitioners

Vs.

Kulumaiyan

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 14.11.2018 passed in E.P.No.71 of 2010 in P.No. 49 of 1999 by the Special Deputy Collector, Revenue Court, Thanjavur.

For Petitioners : Mr.G.Karnan

For Respondent : Mr.A.Arumugam

ORDER

The present revision petition has been filed by the cultivating tenants, challenging the order passed by the Special Deputy Collector, Revenue Court, Thanjavur in ordering eviction in E.P.No.71 of 2010, dated 14.11.2018.

2. It is not in dispute that the landlord, who is the respondent herein had obtained an order of eviction under Tamil Nadu Public Trust Act 25 of



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1955 by way of filing P.No.47 of 1999 in order dated 22.09.2003. The said order covers S.No.27/1 having an extent of 0.54 cent, S.No.27/4 having an extent of 0.07 cents, S.No.27/5 having an extent of 0.79 cents and S.No.31/2 having an extent of 0.17 cents, in total the order of eviction was passed for an extent of 1.57 acres.

3. Earlier, the landlord had filed E.P.No.47 of 2004 for executing the order of eviction. Under the said application, the landlord was able to take possession only 0.17 cents in S.No.31/2. Hence, the landlord had filed the present execution petition in E.P.No.71 of 2010 for taking delivery of the balance extent. The Revenue Court, after considering the submissions made on either side, has passed the impugned order on 14.11.2018, directing the tenants to hand over the possession of the property. Challenging the same, the present revision petition has been filed.

4. According to the learned counsel for the revision petitioners, the second Execution Petition is not maintainable. That apart, contending that all the properties have been taken possession, the landlord had filed O.S.No.294 of 2004 seeking for injunction as against the tenants. Therefore, at this length of time, the landlord cannot take a 'U' turn and contend that he has not taken



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possession of the entire property. Hence, he prayed for allowing the revision petition and to set aside the order passed in the execution proceedings.

5. I have carefully considered the submissions made on the side of the revision petitioner.

6. It is not in dispute that the order of eviction passed by the Revenue Court on 22.09.2003 in P.No.47 of 1999 for the entire extent of 1.57 acres had attained finality. The landlord contends that he has already taken possession of 0.17 cents in S.No.31/2. A perusal of the plaint in O.S.No.294 of 2004 reveals that the said suit was filed only to injunct the tenant in possession from putting up the brick kiln. Therefore, the contention of the learned counsel for the revision petitioners that the landlord has admitted that he has taken possession of the entire property in O.S.No.294 of 2004 is not factually correct.

7. When the order of eviction has attained finality, there cannot be any legal impediment for the landlord to take possession of the other three S.Nos.27/1, 27/4 and 27/5. The Revenue Court has rightly passed an order in favour of the landlord by permitting him to take possession of the property. There are no merits in the revision petition. The Civil Revision Petition stands



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dismissed. No costs.

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Index : Yes / No

Internet: Yes / No

NCC :Yes / No

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To

1.The Special Deputy Collector,
Revenue Court,
Thanjavur.

2.The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

R.VIJAYAKUMAR,J.,

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