

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 18.11.2025

Order pronounced on : 12.12.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.2565 of 2023
& CMP.No.15845 of 2023

Dr.P.Chinnaiyan

... Petitioner

Vs.

1.B.Rabison

2.B.Edwin

3.B.Jaya Balan

4.B.Adhisaya Rajan

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the order of the Court passed in E.P.No.79 of 2022 in RLTOP.No.41 of 2020 dated 30.01.2023 on the file of the Principal District Munsif Court, Poonamallee.

For Petitioner : Mr.A.E.Chelliah
Senior Counsel for Mr.R.Prathaban

For Respondents : Mr.D.Bennington

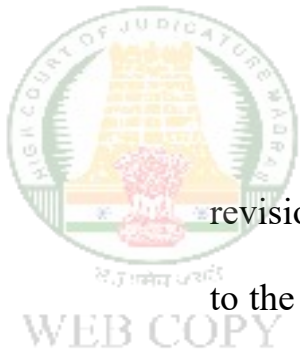
ORDER

The tenant is the revision petitioner. The revision petitioner challenges the order dated 30.01.2023 passed in EP.No.79 of 2022 in RLTOP.No.41 of 2020 on the file of the Principal District Munsif, Poonamallee.



2.I have heard Mr.A.E.Chelliah, learned Senior Counsel for Mr.R.Prathaban, learned counsel for the petitioner and Mr.D.Bennington, learned counsel for the respondents.

3.Mr.A.E.Chelliah, learned Senior Counsel would submit that the revision petitioner is a doctor by profession, who has been rendering selfless service to the society, more so, poor and downtrodden persons in the locality for four decades. He would further submit that when the petitioner's possession was sought to be interfered with, the petitioner filed a suit in O.S No.259 of 2014 before the Learned Principal District Munif Court at Poonamallee, and the suit, after contest, came to be decreed, granting a permanent injunction in favour of the revision petitioner. He would therefore state that in breach and violation of the decree, the respondents ought not to have proceeded to dispossess the revision petitioner. The learned Senior Counsel would further state that despite the decree staring at the face of the respondents, being brought to the notice of the executing Court, the executing Court has passed the impugned order, without considering material circumstances that were placed before the executing Court by the revision petitioner.



4.Mr.A.E.Chelliah, learned Senior Counsel would also submit that the revision petitioner was occupying the rear portion of the property belonging to the respondents and his entry was only through a five feet pathway and in 2005, there was a change of ownership in favour of the present respondents, who wanted the premises under the occupation of the revision petitioner as well and since the respondents started interfering with the petitioner's possession alone, the above civil suit was even necessitated. He would further submit that the petitioner has been set ex-parte in the RLTOP and an application has already been filed to set aside the ex-parte eviction order and in the meantime, the respondents have high handedly proceeded to dispossess the revision petitioner and the executing Court has clearly erred in ordering delivery of the property in favour of the respondents.

5.He would place reliance on the decision of this Court in *Murugesu Gounder and Another Vs. Brindhavathi Ammal and others*, in S.A.No.1602 of 2009 dated 17.02.2011, where this Court held that the Court should always lean in favour of remedial authority or jurisdiction, in order to enlarge or extend justice to the aggrieved. He would also submit that the said decision was taken up to the Hon'ble Supreme Court in Special Leave to Appeal (C) No.21528 of 2011, which came to be dismissed. He would therefore state that this is also a case where the substantial justice has to be

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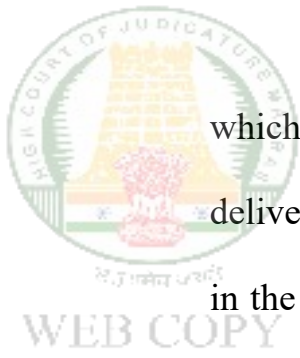
rendered by this Court and the order passed by the executing Court has to be set aside.

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6.Per contra, Mr.D.Bennington, learned counsel for the respondents would submit that the respondents filed RLTOP.No.41 of 2020 on the ground that there has been a failure to enter into a tenancy agreement between the petitioner and the respondents. In the said RLTOP, the petitioner was served with notice on 19.01.2021 and he was set ex-parte on 09.04.2021 and even thereafter, close to a year later alone, the eviction order came to be passed on 10.03.2022. The learned counsel would therefore state that at no point of time, the petitioner took any steps to set aside the ex-parte order.

7.The learned counsel for the respondents would further contend that the execution petition was filed on 01.06.2022 and even in the execution petition, the petitioner was served and he entered appearance by engaging a counsel on 22.09.2022 and after giving sufficient opportunity to file counter, the executing Court, by order dated 09.12.2022, set the petitioner ex-parte and in furtherance of the same alone, the decree was executed and the respondents have taken possession through Court process on 03.01.2023. He would further state that the EP itself came to be terminated on 30.01.2023 and therefore, nothing survives for consideration in the present revision

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which challenges the order passed by the executing Court, recording delivery and terminating the EP. He would further state that the decree passed in the suit was subsequent to filing of RLTOP by the respondents and it has no bearing on the said eviction proceedings. He would also state that even after entering appearance in the execution petition on 22.09.2022, the petitioner did not make any attempt to get the ex-parte eviction order in the RLTOP set aside and he filed an application only on 19.12.2022 in that regard. He would therefore pray dismissal of the revision.

8.I have carefully considered the submissions advanced by the learned Senior Counsel for the petitioner and the learned counsel for the respondents.

9.The fact that the revision petitioner suffered an order of eviction in the RLTOP proceedings is not in dispute. It is the primordial contention of the learned Senior Counsel that when the petitioner had a valid decree, after contest, granting the relief of permanent injunction, the respondents could not have executed the decree in the RLTOP and dispossess the petitioner. The decree passed in O.S.No.259 of 2014, dated 14.12.2020 grants a permanent injunction in favour of the plaintiff restraining the defendants, namely the respondents herein from evicting the plaintiff from the suit

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schedule property, *except by due process of law.*

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10. Admittedly, the respondents have dispossessed the revision petitioner, only by invoking the due process of law and therefore, I do not see how the decree passed in the civil suit in favour of the revision petitioner has been breached or violated by the executing Court.

11. Even otherwise, as rightly contended by the learned counsel for the respondents, the petitioner, despite service of notice, did not choose to appear before the Rent Court and even in the execution petition, despite having entered appearance through counsel as early as on 22.09.2022, the revision petitioner did not take appropriate steps to have the ex-parte decree set aside, leave alone file a counter in the execution petition. The executing Court has granted sufficient time to the petitioner and has set him ex-parte only on 09.12.2022. It is only after the petitioner was set ex-parte in the execution petition that the application came to be filed before the Rent Court to set aside the ex-parte eviction order on 19.12.2022.

12. In fact, it is also contended by the learned counsel for the respondents that the said application was also returned on 23.12.2022. Be that as it may, in order to execute the decree passed by the Rent Court, the



executing Court, after strictly complying with the mandate of Section 37, after giving notice to the revision petitioner, has ordered delivery of the property in favour of the respondents. The respondents have also admittedly taken possession of the tenanted premises on 03.01.2023 and EP has also been terminated on 30.01.2023. I do not see any purpose being served by the petition challenging merely the said order dated 30.01.2023, recording the factum of delivery having been effected in favour of the respondents and terminating the EP. If at all, the remedy open to the petitioner is only to attempt to set aside the ex-parte eviction order. Since the petitioner has already filed an application, it is open to the petitioner to pursue the said application to its logical end. I do not see any merit in the revision petition.

13. In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

12.12.2025

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
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To

The Principal District Munsif Court, Poonamallee.



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P.B. BALAJI,J.

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Pre-delivery order made in
CRP.No.2565 of 2023
& CMP.No.15845 of 2023

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