

C.R.P.No.5367 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 10.01.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.5367 of 2024

and

CMP.No.29775 of 2024

1.Sri Venkitammal Trust

Rep.by its Managing Trustee K.Kowsalya

2.K.Kowsalya

N.Krishnasamy (died)

K.Dandapani (died)

T.Subramanian (died)

K.Damodaran (died)

3.K.Hema

4.K.Revathi

5.K.Dhanalakshmi

...

Petitioners

(Cause title accepted vide Court order
dated 19.12.2024 made in CMP.29214/24
in CRP SR No.126431/2024)

Vs.

S.Shanmugam

...

Respondent

PRAYER:- This civil revision petition has been filed under Article 227 of Constitution of India against the O.S.No.104 of 2024 pending on the file of the 1st Additional District Munsiff, Coimbatore.

For Petitioners

...

Mr.C.Chokkalingam



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ORDER

This civil revision petition seeks to strike off the suit in O.S.No.104 of 2024. O.S.No.104 of 2024 is a suit for permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiff except otherwise in accordance with law.

2.The case of the plaintiff is that their father, one Subramaniam, became a tenant under one Renganayagi Ammal. After his demise, the plaintiff succeeded to the deceased's estate on 26.04.2017. He pleaded that on 26.01.2024, the defendants 2 and 7 came to the suit schedule mentioned property and attempted to dispossess him forcibly. Hence, he filed the suit for aforesaid relief.

3.The civil revision petitioners are the defendants in the suit. According to them, the defendants 3 to 6 had expired on 30.06.2006, 26.05.2003, 13.07.2017 and on 02.05.2021. Therefore, they plead the suit has been filed against the dead persons, and hence, not maintainable.



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4. In addition, the learned counsel for the petitioner invited my attention to the notice issued by the Coimbatore Corporation on 08.03.2024, invoking Section 136 of the Tamil Nadu Urban Local Bodies Act calling upon the landlords as well as the tenants to demolish the suit premises immediately. He states only in order to avoid compliance with the said notice that the suit came to be presented. Hence, he states the suit must be struck off from the file of the Court.

5. I have carefully considered the submission made by Mr.C.Chokkalingam. I have gone through the records.

6. With respect to the first plea that the defendants 3 to 6 have expired. I have to point out that they have not been impleaded in their personal capacities but as trustees of the first defendant trust. When a suit is presented against the trust, the trust and the trustees are made as parties to the proceedings. Reading of the plaint shows that the plaintiff alleges he was sought to be dispossessed by the defendants 2 and 7. It is not the plaintiff's case that the dead persons resurrected themselves and attempted to dispossess him. The plaintiffs 2 and 7 are alive and kicking. When that being the situation, the fact that other trustees



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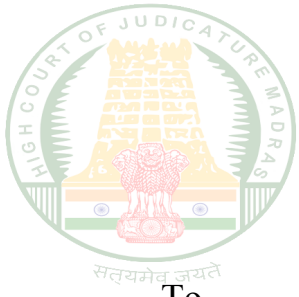
have died, does not prevent a tenant from presenting a suit as against the persons, who attempted to dispossess him.

7. Apart from that, at least for more than a century it is a settled position of law that a person who is in lawful possession of the property cannot be dispossessed except otherwise in accordance with law (see The Midnapur Zemindary Co., Ltd., Vs. Kumar Naresh Narayan Roy & others, AIR 1924 PC 1448)

8. With respect to the second plea that the corporation has issued a notice and that only in order to avoid the said notice that the suit has been presented also does not hold water. The notice issued by the Corporation was on 08.03.2024. The suit has been presented on 01.02.2024. That means the suit has been filed one month prior than the notice. Therefore, I cannot accept the plea that it is camouflaged litigation. Both the points failing I am not inclined to admit the revision. The Civil Revision Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes/No
sms

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To
The 1st Additional District Munsiff, Coimbatore.



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V.LAKSHMINARAYANAN,J

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