



C.R.P(NPD)(MD)No.422 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(NPD)(MD)No.422 of 2024

K.S.Vadivukkarasi

... Petitioner

Vs

1.R.M.Krishnan Chettiyar

2.M.Meyyammal Achi

3.S.Soundararajan

4.S.Chandrasekaran

5.Vishnu Enterprises,
Represented by its Partner,
No.B-6/3, 1st Cross,
Sastri Road,
Trichy – 17.

... Respondents

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decretal order dated 10.08.2023 passed by the I Additional District Munsif, Trichy in E.A.No.5 of 2023 in E.P.No. 156 of 2017 in R.C.O.P.No.111 of 1994.

For petitioner : Mr.T.Leninkumar

For Respondents : Mr.K.Prabhakar for R1 and R2
R3 to R5-Dispensed with

ORDER



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This Civil Revision Petition is filed against the fair and decreetal order dated 10.08.2023 passed by the I Additional District Munsif, Trichy in E.A.No.5 of 2023 in E.P.No.156 of 2017 in R.C.O.P.No.111 of 1994.

2. The facts in brief:

R.C.O.P.No.111 of 1994 was filed by one R.M.Krishnan Chettiyan and M.Meyyammai Achi, who are the respondents 1 and 2 herein, against one Soundararajan, Chandrasekaran and Vishnu Enterprises under Section 10(2)(i) and 10(2)(ii)(a) of Tamil Nadu Rent Control Act, 1960 for the order of eviction. The petition was allowed by the order dated 20.04.2017. Later, R.C.A.No.52 of 2017 was preferred by the judgment debtors to the appellate authority and the appellate authority, by the order dated 17.02.2020, dismissed the appeal. Against which, CRP(MD)No.663 of 2021 was filed by Soundararajan and Vishnu Enterprises and the said revision came to be dismissed by the order dated 15.06.2021. Execution petition was filed by the decree holder in E.P.No.156 of 2017 and delivery was ordered. Later, the revision



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petitioner viz., Vadivukkarasi filed E.A.No.1 of 2021 in E.P.No.156 of 2017 under Order 21 Rule 97 of CPC making obstructions for delivery of the property. Counter was filed by the decree holder. That application came to be dismissed by the Execution Court by an order dated 11.11.2022. After that, this impugned E.A.No.5 of 2023 was taken out by this revision petitioner under Section 151 of C.P.C. seeking a direction to handover the possession of the articles, which were available in the rental premises.

3. That application was filed with the following averments:

Against the order passed by the Execution Court in E.A.No.1 of 2021, a revision was preferred by her before this Court in C.R.P. (MD)No.2391 of 2022. As per the direction of this Court, the possession of the articles found in the premises must be handed over to her.

4. That application was resisted by the decree holder. After hearing both sides, the Execution Court dismissed the petition. Against which, this revision is preferred.



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5. Heard both sides.

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6. For better understanding of the issue involved, the order passed in E.ANo.1 of 2023 and thereafter, the order passed by this Court in C.R.P.(MD)No.2391 of 2022 must be summarized. In E.ANo.1 of 2021, the revision petitioner stated that he became a tenant under Meyyammai Achi on 02.05.2012. It was a oral tenancy and rent was payable at the rate of Rs.1,000/- at the initial stage. Later, enhanced to Rs.1,800/- per month and the advance amount of Rs.1 lakh was paid by her. There was no default on her part in payment of rent. Later, money was sent through Money Order as per the request made by Meyammai Achi. At that time of entering into the lease agreement, pendency of the litigation was not brought to her notice. She was not able to get alternative accommodation immediately and if alternative accommodation is made, her customers will be affected. On that ground, she has filed the obstruction petition as mentioned above. It was dismissed holding that she has failed to prove that she is a tenant under Meyyammai Achi in connection with the petition mentioned property and further found that she failed to prove that she is a proprietor of M/s.Vishnu Enterprises. She has also failed to



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establish that the above said enterprises are the tenant under Meyammai Achi.

7. Against which, a revision petition was preferred in C.R.P. (MD)No.2391 of 2022 by this petitioner. At the time of hearing, it was pointed out that the order passed under Order 21 Rule 97 of C.P.C. is appealable and the revision is not maintainable; Delivery was effected; Possession was taken by the decree holders; EP was also terminated. At that time, the revision petitioner has submitted before this Court that while taking delivery of the property, they have taken possession of the movables found inside the premises of the petitioner. On that ground, permission was granted to the revision petitioners to initiate appropriate proceedings to get back the movables. With that the said revision was closed. Now according to the petitioner, by virtue of the liberty granted by this Court, she has filed E.A.No.5 of 2023.

8. To whom, the movables found in the demised premises belong is beyond the scope of a petition under Section 151 of C.P.C. and thereupon under the revisional jurisdiction of this Court. It must be decided only upon the evidence of oral and documentary. The attempt



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made by the petitioner to make obstructions at the time of delivery was dismissed. Revision also failed. So if at all, the revision petitioner ought to have filed appropriate civil suit to prove the ownership. Now the properties are available and the same are under the temporary custody of the decree holders. According to them, the revision petitioner failed to prove that she is in the occupation of the demised premises. Once she has failed, then to whom the movables belongs has to be decided in an appropriate proceedings or at least the revision petitioner must produce proper indemnity bond to the Execution Court in case of any future claim by the judgment debtors. Therefore, unless the revision petitioner is able to prove the ownership of the movable, it may not be possible for them to hand over the same to the revision petitioners.

9. The objection made by the decree holders are acceptable in nature. There is absolutely no finding by the Execution Court that this revision petitioner was in possession of the demised premises at the time of effecting delivery. Therefore, the only remedy available to the revision petitioner is to file appropriate civil suit in this regard. Till that time, the movables must be kept by the decree holder in Trust.



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10. With the above said liberty, I find no reason to interfere with the order passed by the Execution Court and hence, this Civil Revision Petition fails and the same is dismissed. There shall be no order as to costs.

27.01.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
vsm

To

1. I Additional District Munsif, Trichy.
2. The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai



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G.ILANGO VAN, J.

vsm

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