

CRP(MD). No.1267 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 10/07/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.1267 of 2022
and CMP(MD) No.5195 of 2022**

P.B.Subramanian

... Petitioner

Vs

1. S.K.A. Rukumaniammal

2. Ramalingam

3. S.A. Balasubramanian

4. S.B. Roobini

5. P.R. Jothilingammal

6. V.S. Padma

7. A.K. Raj Priyan

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 01.03.2022 in I.A. No. 1 of 2021 in O.S. No. 179 of 2021, on the file of District Munsif Court, Rajapalayam.

For Petitioner : Mr.S.Ramesh



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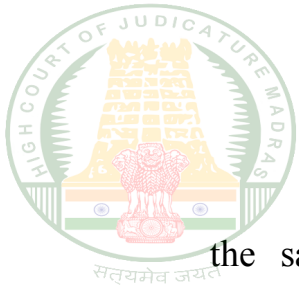
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For Respondents : Mr.Y.Prakash for R1 to R3
Mr.M.Thirunavukkarasu for R7

ORDER

The Civil Revision Petition is filed against the order dated 01.03.2022 in I.A. No. 1 of 2021 in O.S. No. 179 of 2021, on the file of District Munsif Court, Rajapalayam.

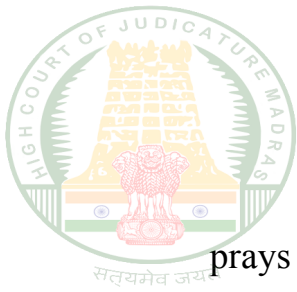
2. The petitioner is the tenant and he filed a suit in OS No. 342/2013 for permanent injunction restraining the defendants/landlord from interfering with his peaceful possession and enjoyment of the suit schedule property except due process of law. Pending suit, the petitioner filed an interlocutory application to amend the relief in the plaint to that of recovery of possession in stead of permanent injunction. Since the trial has not yet commenced in the suit, the said petition for amending the plaint was allowed. Challenging the said allowing of the amendment, the 7th defendant, who is the borrower of the suit property from the defendants 1 to 6/the legal heirs of the original landlord of the suit property, filed a civil revision petition in CRP(MD) No.2265/2016 and



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the said petition came to be allowed. Subsequently, the suit was transferred to the District Munsif Court, Rajapalayam and renumbered as OS No.179/2021. In the interregnum, exparte order came to be passed in the suit and in order to set aside the exparte order, the petitioner filed an application in IA No.69/2019 and the suit came to be restored. Pending suit, the petitioner filed an interlocutory application in IA No.1/2021 under Order XXIII Rule 1(3) of the Code of Civil Procedure to withdraw the original suit. However, the said petition was dismissed, against which, the petitioner is before this Court with this petition.

3. The learned counsel for the petitioner would submit that admittedly, the petitioner is a tenant of the suit property, which was owned by one S.K.Alagar Raja and with his consent, the petitioner's father constructed a superstructure and became owner of the superstructure and after the death of his father, the petitioner has continued as a tenant. Pending suit, the learned counsel would submit that the petitioner filed application in IA No.1 of 2021 to withdraw the suit and for filing fresh suit claiming recovery of possession from the landlord and the said application came to be dismissed and hence, he



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prays for appropriate orders. In support of his contention, he has relied upon the decision of this Court dated 28.01.2016 in G.K.Parthasarathy v. K.Gopal and another in CRP(MD) No.2431 of 2015.

4. The learned counsel for the respondents 1 to 3, on the other hand, would submit that the respondents are admittedly the landlord and the petitioner's father occupied the premises in the year 1962 and since the rent was not paid, they were evicted in the manner known to law in the year 2013. After eviction, the petitioner filed a suit against the respondents. Earlier an attempt was also made to purchase the property by filing RC No.1 of 1979 and the same was ended against him vide order of this Court. While so, he was evicted in the year 2013 and subsequently, IA No.70/2016 filed for amending the plaint came to be allowed. Subsequently, the said order was challenged before this Court by the 7th defendant and it was subsequently set aside vide order of this Court dated 03.07.2018 in CRP(MD) No.2265/2016. Subsequently in the year 2021 for the very same relief, for which earlier the interlocutory application came to be allowed and the same was subsequently set aside by this Court, he filed a petition for withdrawal of the suit, which was



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rightly rejected. Hence, for all these reasons, he prays for dismissal.

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5. I have considered the rival submissions and perused the materials available on record.

6. A perusal of the entire record reveals that the petitioner is the plaintiff and against the alleged eviction, the petitioner filed a suit in OS No.342/2013 for injunction. Subsequently, the petitioner claims that he was unlawfully evicted from the said premises and therefore, he filed IA No.70/2016 under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure for amendment of plaint for recovery of possession and the said petition came to be allowed. Aggrieved by the same, the 7th defendant has filed a CRP(MD) No.2265/2016 before this Court and the same was allowed and the order in IA No.70/2016 was set aside. Thereafter, the petitioner filed IA No.1/2021 under Order XXIII Rule 1(3) of the Civil Procedure Code for withdrawal of the suit and for filing fresh suit and the same was dismissed. When an earlier attempt made by the petitioner for recovery of possession was rejected by this Court and when the cause of action has already been expired, again filing a petition



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for withdrawal of the suit for the very same cause of action is not sustainable. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

10.07.2025

NCC : Yes/No

Index : Yes/No

RR

TO

1.The District Munsif Court, Rajapalayam.

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) No.1267 of 2022**

Date : 10/07/2025