



C.R.P.(PD)(MD).No.2496 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD).No.2496 of 2022
and CMP(MD).No.12253 of 2022

S.Arjunan

... Petitioner

-VS-

Indira

...Respondent

PRAYER: The Civil Revision Petition has been filed under Article 227 of Constitution of India, to allow the civil revision petition by setting aside the fair and decreetal order passed in I.A.No.2 of 2020 in RCOP.No.3 of 2019 on the file of the Principal District Munsif Court, Tirunelveli dated 17.08.2022.

For Petitioner : Mr.H.Arumugam

For Respondent : No appearance

ORDER

The respondent in RCOP.No.3 of 2019 on the file of the Principal District Munsif Court, Tirunelveli is the revision petitioner.

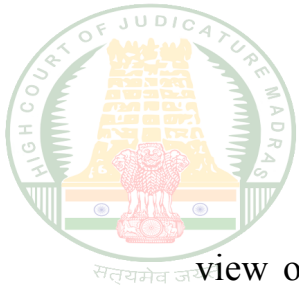


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2.The respondent in the revision petition had filed RCOP.No.3 of 2019 on 24.01.2019 for evicting the revision petitioner on the ground of wilful default and damages. The revision petitioner herein as plaintiff has filed O.S.No.155 of 2019 before the District Court, Tirunelveli on 29.04.2019 for the relief of declaration that the sale deed dated 27.03.2018 executed by the first defendant in favour of the third defendant (the petitioner in RCOP) is null and void and not binding upon the plaintiff. The revision petitioner had further prayed for permanent injunction restraining the defendants from interfering peaceful possession and enjoyment of the suit schedule property.

3.Admittedly, the revision petitioner herein was the original owner of the petition mentioned property. He had executed a power deed in favour of one Kanthimathi, W/o. Selvakumar. The said Kanthimathi has executed a sale deed in favour of the petitioner in RCOP on 27.03.2018. According to the revision petitioner, he had borrowed loan from the said Selvakumar and as a security for the said loan, he had executed a power deed in favour of the wife of Selvakumar namely Kanthimathi. Using the said power deed, the said Kanthimathi has executed a sale deed in favour of the third defendant who is none other than the mother of Selvakumar. In



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view of the above said fact, the suit in O.S.No.155 of 2019 came to be filed challenging the sale deed dated 27.03.2018 and for permanent injunction not to disturb possession. In the meantime, the revision petitioner had filed I.A.No.2 of 2020 in RCOP.No.3 of 2019 under Section 151 of C.P.C to stay the rent control proceedings awaiting disposal of the suit. The said application has been dismissed with the observation. The rent control proceedings being summary in nature, the question of invoking Section 10 or 151 of C.P.C do not arise. Challenging the same, the present civil revision petition is filed.

4. According to the learned counsel for the revision petitioner, the title between the parties is in serious dispute in O.S.No.155 of 2019. As per Section 10(2)(vii) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, only when the title dispute is not bonafide, the Rent Controller would be entitled to pass an order of eviction. However, in the present case, once title dispute has arisen between the parties which is pending before the competent civil Court, the Rent Controller ought to have stayed the rent control proceedings.



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5.Though the respondent/landlord has been served in December 2022 and her name is printed in the cause list, so far she has not chosen to appear either in person or through counsel.

6.A perusal of plaint in O.S.No.155 of 2019 clearly indicates that there is a serious title dispute between the parties. The landlord in RCOP.No.3 of 2019 is the third defendant in the said suit. In view of Section 10(2)(vii) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, this Court is of the considered opinion that there is a bonafide dispute with regard to the title of the parties. Therefore, the parties have to be relegated to the civil suit. However, in the present case, the civil suit is already pending between the same parties.

7.In such circumstances, this Court is of the considered opinion that the rent control proceedings shall be kept in abeyance till disposal of the civil suit. The order impugned in the revision petition is set aside and the Rent Controller Tribunal, Tirunelveli is directed to keep the proceedings in RCOP.No.3 of 2019 in abeyance till the disposal of O.S.No.155 of 2019 on the file of the District Court, Tirunelveli.



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8. With the above said observations, this civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

10.02.2025

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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To

1. The District Judge, Tirunelveli
2. The Principal District Munsif, Tirunelveli
3. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

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