



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23/2/2015

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.PD(MD) No.307 of 2015

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A. Mohan Periyasamy

..Petitioner/Defendant

Vs

Smt.L.R.Prema

rep. Through her Power Agent

V.Ramachandran

Karaikudi

Sivagangai District.

..Respondent/Plaintiff

Petition filed under Article 227 of the Constitution of India against the order passed in unnumbered I.A.No.--- of 2015 in O.S.No.66 of 2012 on the file of the I Additional District Judge, Madurai dated 10/2/2015.

For petitioner

... Mr.V.Srinivasan

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#### O R D E R

The defendant in O.S.No.66 of 2012 filed for recovery of money towards the arrears of rent is the petitioner herein.

2. The revision petitioner is the tenant. The landlord had filed R.C.O.P.No.14 of 2000 on the file of the District Munsif, Madurai for fixing the fair rent. The fair rent was fixed at Rs.10,700/- by an order dated 17/7/2008. Aggrieved by the said order, the tenant had preferred the appeal in R.C.A.No.50 of 2008. The said R.C.A was dismissed for default on 22/8/2011. The tenant filed an application to restore the R.C.A with delay. The delay petition was subsequently numbered as I.A.No.1 of 2015 whereas the restoration petition was numbered as I.A.No.203 of 2014 and both the applications are now pending before the Rent Control Appellate Authority and posted for the filing of the counter by the landlord.

3. While so, in the suit in O.S.No.66 of 2012, the tenant had filed the written statement on 2/12/2013. After framing of the issues, the trial had commenced and P.W.1 was examined on 21/1/2015 and it is posted for his cross-examination on 3/2/2015. At this juncture, the revision petitioner had filed the unnumbered I.A in O.S.No.66 of 2012 praying for an order to stay all further proceedings in the suit in O.S.No.66 of 2012 for a period of six months. The said application was returned by the First Additional District Judge, Madurai on the following requirement.

"The suit is of the year 2012, now stands posted for cross-examination of P.W.1. At this juncture, how this petition is maintainable. Hence returned."



4. The revision petitioner had complied with the return and re-presented. But, however, it was returned again on 10/2/2015 by the First Additional District Judge, Madurai. Challenging the said order, this Civil Revision Petition is filed.

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5. Heard the learned counsel for the petitioner.

6. The contention of the learned counsel for the petitioner is that the I Additional District Judge, Madurai, ought to have numbered the I.A and decided the same on merits. From the petition filed in the unnumbered I.A., it is seen that the tenant has only asked for stay of O.S.No.66 of 2012 for a period of six months. It is not for a litigant to dictate terms to the Court as to when the matter has to be taken up. According to the revision petitioner, he did not have knowledge about the filing of the suit earlier. Besides, it is contended by the petitioner that the suit in O.S.No.66 of 2012 is premature, since it is filed for recovery of arrears of rent. The said arrears is based on the order passed in R.C.O.P.No.14 of 2000. When the order of Rent Controller is challenged in an appeal, according to the learned counsel for the petitioner, till the finality is reached in the said appeal, the suit cannot be proceeded with. Hence he sought for stay of the suit for six months.

7. The fair order in R.C.O.P was passed on 17/7/2008 and the appeal in R.C.A.No.50 of 2008 was filed on 5/10/2008. The suit of the respondent was filed on 14/2/2013 and the defendant also had filed his written statement on 2/12/2013. From the above dates, it is very clear that the revision petitioner had knowledge about the filing of the suit as well as the consequences of the Rent Control proceedings. The revision petitioner having deliberately let the R.C.A to go for default on 22/6/2011 had filed the restoration application with delay. Therefore, admittedly, as on date, there is no Rent Control Appeal pending on the file of the Appellate Authority.

8. Secondly, having filed the written statement as early as 2013, the petitioner could have taken steps for speedy disposal of the Rent Control Appeal. The Rent Control Appeal is filed seven years ago and no result has come out of the same excepting that it is dismissed for default. When no such appeal is pending, it is an ununderstandable why the suit should be stayed for a period of six months. The petition also does not mentioned clearly about the same. The petitioner has filed this application under Section 151 of the Code of Civil Procedure but invoking the principles laid down in Section 10 of the Code of Civil Procedure. But when there is no connected proceedings pending as on date, he cannot ask for stay of all further proceedings in the suit. Even presuming for a moment stay can be granted, it is only the stay of the trial of the suit. Admittedly, the trial has commenced. Therefore, the petitioner cannot flex the situation to suit his convenience. Therefore, the learned I Additional District Judge, Madurai had rightly returned the unnumbered I.A for stay without numbering it. This Court sees no infirmity or illegality in the order passed by the I Additional District Judge, Madurai.



9. In the result, this Civil Revision Petition is dismissed, confirming the order passed by the I Additional District Judge Madurai in I.A.No.--- of 2015 in O.S.No.66 of 2012. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

The Additional District Judge, Madurai.

+1CC to M/s.V.Srinivasan, Advocate in SR.8299

C.R.P.PD (MD) No.307 of 2015  
23/2/2015

mvs

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