

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.4779 of 2015
and M.P.No.1 of 2015
and C.M.P.No.15790 of 2016

L.R.Varadharajan

... Petitioner

Vs.

Sirthar S.A.Thahar Hussain

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decreetal order dated 19.11.2015 passed in E.A.No.178 of 2015 in E.P.No.5 of 2014 on the file of the Additional District Munsif, Vaniyambadi.

For Petitioner : Mr.R.Neelakandan

For Respondent : Mr.M.V.Krishnan

ORDER

Challenging the order passed in E.A.No.178 of 2015 in E.P.No.5 of 2014 on the file of the Additional District Munsif, Vaniyambadi, the Judgment Debtor/tenant has filed the above Civil Revision Petition.

2.The respondent/landlord filed the Rent Control Original Petition in R.C.O.P.No.6 of 2003 for eviction on the ground of willful default and demolition and reconstruction.

3.The Rent Controller ordered eviction, against which the revision petitioner/tenant filed an appeal in R.C.A.No.2 of 2015 on the file of the Rent Control Appellate Authority, Subordinate Court, Vellore.

4.Since the tenant failed to appear before the Rent Control Appellate Authority, the appeal was dismissed for default. Thereafter, pursuant to the order of eviction passed by the Rent Controller, the landlord filed an Execution Petition in E.P.No.5 of 2014. In the Execution Petition, the tenant filed an application in E.A.No.178 of 2015 under Order 21 Rule 29 of the Civil Procedure Code to stay the Execution Petition till the disposal of the appeal in R.C.A.No.2 of 2015.

5.This Court, by orders dated 04.10.2016 and 02.11.2016, directed the tenant to deposit the arrears of rent, amounting to Rs.64,800/-.

6.The learned counsel on either side submitted that the tenant had deposited the said amount of Rs.64,800/- to the credit of R.C.O.P.No.6 of

2003 on the file of the Additional District Munsif, Rent Controller, Vaniyambadi.

7.The learned counsel appearing for the petitioner submitted that the appeal in R.C.A.No.2 of 2015, which was dismissed for default, may be restored and the Rent Control Appellate Authority may be directed to dispose of the appeal within a time frame.

8.Mr.M.V.Krishnan, learned counsel appearing for the respondent/ landlord also submitted that the landlord has no objection for restoring the appeal in R.C.A.No.2 of 2015 and in such circumstances, the Appellate Authority may be directed to dispose of the appeal within a short time for the reason that the Rent Control proceeding is pending from the year 2003.

9.In view of the submissions made by the learned counsel on either side, the order passed by the Additional District Munsif, Vaniyambadi in E.A.No.178 of 2015 in E.P.No.5 of 2014 is set aside.

10.In view of the submissions made by the learned counsel on either side, there shall be an order of interim stay till the disposal of the appeal in R.C.A.No.2 of 2015.

11.The Rent Control Appellate Authority, Subordinate Judge, Vellore is directed to restore the appeal in R.C.A.No.2 of 2015 and dispose of the same, on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order.

12.The learned counsel appearing for the respondent/landlord submitted that the landlord may be permitted to withdraw the arrears of rent deposited by the tenant.

13.However, the learned counsel appearing for the petitioner/tenant submitted that since there is dispute with regard to the jural relationship, the respondent/landlord may be permitted to withdraw the amount without prejudice to the contentions raised by the tenant before the Rent Control Appellate Authority.

14.In view of the submissions made by the learned counsel on either side, I permit the respondent/landlord to withdraw the sum of Rs.64,800/- deposited by the petitioner/tenant to the credit of R.C.O.P.No.6 of 2003 without prejudice to the contentions raised by the petitioner/tenant in R.C.A.No.2 of 2015. In the event of the tenant succeeding before the Rent

Control Appellate Authority, it is open to the petitioner/tenant to take appropriate steps for recovery of the amount from the respondent/ landlord.

15. With these observations, the Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Index : No
Internet : Yes
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14.11.2016

Note: Issue order copy on 15.11.2016.

To

1. The Additional District Munsif,
Vaniyambadi.
2. The Rent Control Appellate Authority,
The Subordinate Judge,
Vellore.

M.DURAISWAMY,J.
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