

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2016

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THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.1529 of 2016

and

C.M.P.No.8316 of 2016

V.Kalarani

... Petitioner

vs

1.S.Santhakumar

2.S.Jayakumar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 16.03.2016 passed in M.P.S.R.No.2173 of 2016 in R.C.O.P.No.268 of 2015 on the file of the XIII Judge, Small Causes Court, Chennai.

For Petitioner : Mr.V.Subramani

For Respondents : Mr.K.S.Madhavan

ORDER

This revision challenges the order of the learned Rent Controller, passed in M.P.S.R.No.2173 of 2016 in R.C.O.P.No.268 of 2015. Such miscellaneous petition was moved by the revision petitioner, seeking stay of all further proceedings, in R.C.O.P.No.268 of 2015, on the ground that the certified copy in MP.No.692 of 2015 therein, was not delivered to her to enable her to move this Court. Further, the learned Rent Controller had to await a decision to be rendered in O.S.No.1414 of 2015 on the file of the XVI Assistant City Civil Court, Chennai, before proceeding further in this case.

2. Heard learned counsel on either side.

3. Learned counsel submits that the petitioner had moved O.S.No.1414 of 2015 on the file of the learned XVI Assistant City Civil Court, Chennai seeking a declaration that the respondents are not the owners of the land in question. It is the contention of the petitioner that she had put up the super structure in the demised premises. Learned counsel further submits that M.P.No.357 of 2015 had been moved by the respondents seeking eviction on the ground of arrears in payment of rent. Such petition has been reserved for orders without hearing the petitioner and the petitioner had moved MP.No.692

of 2015 seeking to reopen M.P.No.357 of 2015. However, M.P.No.692 of 2015 was dismissed and the petitioner was denied a reasonable opportunity to defend the rent control proceedings. The petitioner had therefore moved MP.S.R.No.2173 of 2016 praying for stay of all further proceedings in RCOP No.268 of 2015 till the certified copies in MP.No.692 of 2015 is furnished and pending decision in O.S.No.1414 of 2015 of the file of the XVI Assistant City Civil Court, Chennai. Such petition in MP.S.R.No.2173 of 2016 was dismissed by the learned Rent Controller, which is questioned in this revision.

4. Before the Court below, though MP.SR.No.2173 of 2016 has been listed under the caption "for maintainability" the decision on the said petition has been rendered on merits after hearing the submissions of the learned counsel for petitioner. In dismissing M.P.S.R.No.2173 of 2016, the Court below has observed as under:

" The first contention of the petitioner is that she seeks stay of all further proceedings to enable her to file CRP against order in M.P.No.692 of 2015. On perusal of records it is seen that orders were passed in M.P.No.692 of 2015 in M.P.No.357 of 2015

on 22.01.2016. From 22.01.2016, to till date (i.e.,) 16.03.2016, 53 days was available to file CRP against order in M.P.No.692 of 2015. The said period of 53 days is reasonable which was available for the petitioner to file C.R.P and she has not produced any documents to show that she has taken steps to file C.R.P against order in M.P.No.692 of 2015. Therefore, the said contention is not acceptable.

The second contention of the petitioner is that she seeks stay of all further proceedings until the orders in C.R.P.No.4695 of 2015 is passed. When the petitioner herself has stated that she had already filed C.R.P.No.4695 of 2015 before the Hon'ble High Court, when she has already filed C.R.P.No.4695 of 2015, she has to obtain an order of stay by filing necessary applications only in the Appellate Forum. Hence, the said contention is rejected.

The petitioner's third contention is that she seeks stay of all further proceedings until the result of suit in O.S.No.1414 of 2015 which is filed to decide the title to the superstructure. In rent control proceedings the jural relationship is only concerned and title to the superstructure has nothing to do with the rent control proceedings.

Hence, stay cannot be granted for the above reason."

5. The order passed by the learned Rent Controller on merits does not warrant any interference of this Court. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is also closed. No costs

09.08.2016

Index:yes/no
Internet:yes
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To

XIII Judge, Small Causes Court,
Chennai

C.T.SELVAM, J

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