

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2016

CORAM

THE HONOURABLE THIRU JUSTICE **M. DURAISWAMY**

C.R.P.(NPD)Nos.1827 of 2016
and 2302 of 2016
and CMP Nos.9597 and 11902 of 2016

1. Anwar Sheriff
2.Akber Sheriff
3.Rahmath Sheriff
revisions

... Petitioners in both the

vs

1.S.E. Mohammed Rizwanullah
2.Mrs.Kahkashan Anjum
3.Mohamed Faizullah

.... Respondents 1 to 3 in both the revisions

4. Munvar Sheriff
5. Mrs.Abitha Bi
(respondents 4 and 5 have already
been not pressed in the lower court
and are not necessary parties in this
petition.

Civil Revision Petition No.1827 of 2016 filed under Article 227 of the Constitution of India directing the 8th Small Causes Judge, Chennai to dispose of M.P.No.307 of 2015 in RCA No.483 of 2015 forthwith.

Civil Revision Petition No.2302 of 2016 filed under Article 227 of the Constitution of India against the fair and decretal order passed by 10th

Small Causes Judge, Chennai in E.A.o.34 of 2016 in EP No.168 of 2016 in RCOP No.1856 of 2013 dated 21.06.2016.

For Petitioners : Mr.Sirajudeen,
Senior Counsel for
Mr.R. Rajamani

For R.1 to R.3 : Mr.L. Dhamodaran

For R.4 & R.5 : Not ready in notice

COMMON ORDER

Heard Both sides.

2. The respondents in R.C.O.P.No.1856 of 2013, on the file of X Judge, Court of Small Causes, Chennai, have filed the Civil Revision Petition in CRP (NPD) No.1827 of 2016 to direct the Rent Control Appellate Authority, VII Judge, Court of Small Causes, Chennai to dispose of the Stay Petition in M.P.No.307 of 2015 in R.C.A No.483 of 2015 within a time frame.

3. Pursuant to the order of eviction, passed in RCOP No.1856 of 2013, the alleged tenants filed an appeal in R.C.A.No.483 of 2015 on the file of VII Judge, Court of Small Causes, Chennai. In the said appeal, the alleged tenants have also filed a Stay Petition in

M.P.No.307 of 2015.

4. The learned Senior Counsel, appearing for the petitioners, submitted that the stay petition, filed before the Rent Control Appellate Authority, has not been disposed of by the appellate authority, inspite of repeated adjournments given by the Court. The learned Senior Counsel further submitted that the petition has been adjourned for clarification on several dates when no clarification was required in the matter. The learned Senior Counsel also submitted that pursuant to the order of eviction, granted by the Rent Controller, the respondents/landlords also filed an Execution Petition in E.P.No.168 of 2016 on the file of X Judge, Court of Small Causes, Chennai.

5. This Court, while ordering Notice of Motion on 21.06.2016, granted an order of Interim Stay on condition that the petitioners depositing a sum of Rs.2,00,000/- to the credit of RCOP No.1856 of 2013.

6. Now, it is brought to the notice of this Court that the petitioners have complied with the conditional order dated 21.06.2016.

7. The Rent Control Appeal in RCA No.483 of 2015 is also pending for a long time. In these circumstances, I am of the considered view that the appellate authority can be directed to dispose of the appeal within a stipulated time and till such time, the order of interim stay can be granted. Accordingly, I direct the VII Judge, Court of Small Causes, Chennai to dispose of the appeal in RCA No.483 of 2015, on merits and in accordance with law, within three months from the date of receipt of a copy of this order and there shall be an order of Interim Stay till the disposal of the appeal in R.C.A.No.483 of 2015.

8. Civil Revision Petition in CRP No.2302 of 2016 has been filed by the alleged tenants, challenging the order passed in the application in E.A.No.34 of 2016 in E.P.No.168 of 2016 on the file of X Judge, Court of Small Causes, Chennai.

9. Pursuant to the order of eviction, passed in RCOP No.1856 of 2013, the respondents/landlords filed an Execution Petition in E.P No.168 of 2016. In the said Execution Petition, the revision petitioners filed an application in E.A No.34 of 2016 under Sec.47 of the Civil Procedure Code. The respondents/landlords filed their

counter and contested the application. The Executing court, by Order dated 21.06.2016, dismissed the application, against which, the alleged tenants have filed the Civil Revision Petition in CRP No.2302 of 2016 .

10. The learned Senior Counsel, appearing for the petitioners, submitted that the Executing Court, had dismissed the application, even without hearing the submissions, made by the learned counsel, appearing on behalf of the petitioners. Further, the learned Senior Counsel submitted that the matter was adjourned to 16.06.2016 and 21.06.2016 and on the same date, i.e, 21.06.2016, the application was dismissed by the Executing Court. Further, the learned Senior Counsel submitted that since the application was dismissed without hearing the learned counsel appearing for the petitioners, it is against the principles of natural justice. However, the Executing Court had recorded that the application was dismissed only after hearing both sides.

11. The petitioners also filed an affidavit of the counsel, who appeared before the Executing Court in E.A.No.34 of 2016 in E.P No.168 of 2016 stating that he has not made any submission in the application. Since the petitioners are questioning the observations

made by the Executing Court, with regard to the submissions made by the learned counsel appearing for the petitioners, I am of the view that the petitioners can be given liberty to file a Review Application before the Executing Court. Accordingly, liberty is given to the petitioners to file a Review Application in E.A.No.34 of 2016 in E.P.No.168 of 2016.

12. The petitioners shall file the Review Application within one week from the date of receipt of a copy of this order. The respondents/landlords shall file their counter within ten days from the date of numbering of the Review Application. The Executing Court is directed to dispose of the review application, to be filed by the petitioners, on merits and in accordance with law, within three weeks from the date of filing of the counter.

13. With the above observations, both the Civil Revision Petitions are disposed of. No costs. Consequently, connected CMPs are closed.

21-10-2016

sr

Index:no

website:yes

Note: Issue copy of the order by 01.11.2016
C.R.P.(NPD).Nos.1827 & 2302 of 2016

M.DURAIWAMY,J.

The matter has been listed today under the caption 'For being Spoken'.

2.Registry is directed to incorporate the following as Paragraph No.3 in the order dated 21.10.2016 passed in C.R.P.(NPD).1827 & 2302 of 2016:

“The learned counsel on either side submitted that the petitioner filed a petition in Tr.C.M.P.No.422 of 2016 before this Court for transferring the appeal in R.C.A.No.483 of 2015 pending on the file of the VIII Judge, Court of Small Causes, Chennai to some other Court and this Court, by order dated 23.09.2016, had transferred the appeal in R.C.A.No.483 of 2015 pending on the file of the VIII Judge, Court of Small Causes, Chennai to the file of the VII Judge, Court of Small Causes, Chennai.”

3.The Registry is directed to carry out the corrections in the order and issue fresh copies of the order to both sides.

4.In other aspects, the order dated 21.10.2016 shall remain unaltered.

va

16.11.2016

Note: (i) Issue order copy on 17.11.2016.

(ii) Registry is directed to send a copy of the order passed in C.R.P.(NPD).Nos.1827 &

2302 of 2016 to the VII Judge, Court of Small Causes, Chennai.

To

1. The VIII Judge, Court of Small Causes, Chennai
2. The X Judge, Court of Small Causes, Chennai

M. DURAISWAMY,J.,

sr

CRP(NPD)Nos.1827 and
2302 of 2016

21-10-2016