

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.06.2016

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.1953 of 2016 &

C.M.P.No.10210 of 2016

R.Kumarasamy

... Petitioner

v.

Devaraj Arcade (P) Ltd.
Rep. By its Managing Director
Mrs.D.Jayalakshmi
Registered Office at
No.177, NGN Street
Sidhapudur
Coimbatore

... Respondent

Civil Revision Petition filed under section 115 of the Civil Procedure Code, to set aside the order dated 13.04.2016 made in E.P.No.3 of 2009 in R.C.O.P.No.53 of 2005 on the file of the Principal District Munsif, Coimbatore.

For Petitioner : Mr.T.Balaji

For Respondent : Mr.R.Sivaraman

ORDER

Challenging the order dated 13.04.2016 made in E.P.No.3 of 2009 in R.C.O.P.No.53 of 2005 on the file of the Principal District Munsif Court, Coimbatore, the tenant has filed the above Civil Revision Petition.

2. It is the case of the petitioner-tenant that in spite of the undertaking given by the respondent-landlord in CRP(NPD) No.2523 of 2010 before this court on 28.09.2010, the respondent-landlord had proceeded with the Execution Petition and the Executing Court also ordered delivery on 13.04.2016.

3. The learned counsel appearing for the petitioner pointed out the order passed in CRP(NPD) No.2523 of 2010 on 28.09.2010, wherein this court recording the undertaking given by the learned counsel for the respondent-landlord had passed the following order:-

“Learned counsel for the respondent seeks time. The learned counsel for the respondent has made an endorsement to the effect that the Decree Holder will not press the execution proceedings until the disposal of the Civil Revision Petition. Recording the above said undertaking, this Revision Petition is adjourned by three weeks.”

4. On a perusal of the order passed by this court on 28.09.2010, it is clear that the respondent-landlord had undertaken not to press the execution proceedings until the disposal of the Civil Revision Petition, viz., CRP(NPD) No.2523 of 2010.

5. Contrary to the undertaking given by the learned counsel appearing for the respondent, on 2.4.2016, it was represented before the Executing Court, viz., the Rent Controller, Principal District Munsif Court, Coimbatore, that this court has not granted an order of stay and pursuant to the representation made on 2.4.2016, the executing court had ordered delivery on 13.04.2016.

6. When the respondent-landlord had given an undertaking before this court not to press the execution proceedings till the disposal of the Civil Revision Petition in CRP(NPD) No.2523 of 2010, the executing court should not have ordered delivery.

7. The learned counsel appearing for the respondent-landlord fairly submitted that he had already given instruction to the respondent not to proceed further in the execution proceedings.

8. Admittedly, the Civil Revision Petition in CRP(NPD) No.2523 of 2010 is still pending before this court.

9. The learned counsel for the respondent further submitted that the Execution Petition is posted on 27.06.2016 and that a memo would be filed on that day not pressing the Execution Petition.

10. In view of the submissions made by the learned counsel on either side, since the learned counsel for the respondent-landlord has stated that a memo will be filed on 27.6.2016 before the Rent Controller Principal District Munsif Court, Coimbatore, not pressing the Execution Petition in E.P.No.3 of 2009, I do not find any reason to keep the Civil Revision Petition pending.

11. Recording the submission made by the learned counsel appearing for the respondent, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

24.06.2016

Index : Yes/No

Note : Issue copy of the order today (24.06.2016)

Rj

To

The Rent Controller,
Principal District Munsif Court,
Coimbatore.

M. DURAISWAMY,J.,

Rj

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