



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) Nos.2188 and 2189 of 2015 (NPD)  
and  
M.P. (MD) .Nos.1 & 1 of 2015

Arumugam

.. Petitioner in  
C.R.P (MD) Nos.2188 and 2189/2015

Vs.

Mohamed Rabeek

.. Respondent in  
C.R.P (MD) Nos.2188 and 2189/2015

Prayer in CRP(MD). 2188/ 2015 :

To set aside the fair and decreetal order dated 07.08.2015 in EA.No.88/2015 in EP.No.36/2014 in RCOP.No.7/2011 the file of the District Munsif Court cum Rent Controller, Pudukkottai by allowing this Civil Revision Petition and thus render justice.

Prayer in CRP(MD). 2189/ 2015 :

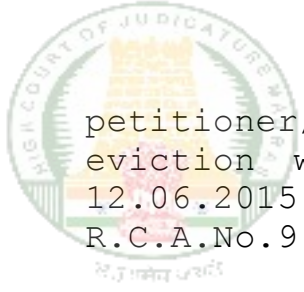
To set aside the fair and decreetal order dated 07.08.2015 in EA.No.87/2015 in EP.No.36/2014 in RCOP.No.7/2011 the file of the District Munsif Court cum Rent Controller, Pudukkottai by allowing this Civil Revision Petition and thus render justice.

For Petitioner : Mr.K.Balasundharam

### COMMON ORDER

This memorandum of these Civil Revision Petitions have been directed against the fair aand decretal order dated 07.08.2015, made in E.A.No.88 and 87 of 2015 in E.P.No.36 of 2014 in R.C.O.P.No.7 of 2011 by the learned District Munsif Court cum Rent Controller, Pudukkottai.

2. The petitioner is the tenant and the respondent in R.C.O.P.No.7 of 2011. The respondent/Land Lord has filed the above said RCOP and prayed for eviction and to hand over the possession to the respondent/land lord. The said petition was allowed and the possession and eviction order was passed on 12.06.2015 in the above said execution petition. Against that order, the



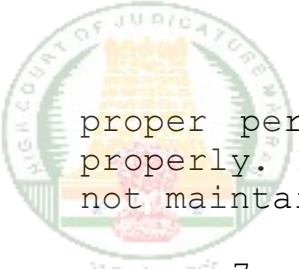
petitioner/tenant filed E.A.Nos.88 and 89 of 2015, to recall the eviction warrant and not to deliver the eviction order dated 12.06.2015 till the disposal of the stay petition in the R.C.A.No.9 of 2014.

3. According to the petitioner, he filed R.C.A.No.9 of 2014, against the order of eviction dated 12.06.2015. He also filed stay petition. The Court staff neither numbered the application for stay nor returned the same. Therefore he filed two applications for E.A.Nos.88 and 89 of 2015 in E.P.No.36 of 2014. The respondent/land lord filed counter and opposed the applications and submitted that both applications are not maintainable. The learned Judge considering the facts and materials on record, dismissed both applications by order dated 07.08.2015. Against the said order, present Civil Revision Petition is filed.

4. The learned counsel for the petitioner submitted that the lower Court ought to have exercised the discretion and granted stay. The learned Judge ought to have seen that the petitioner has filed R.C.A.No.9 of 2014, against the order of eviction and filed application for stay on the order of eviction. Therefore prayed for allowing this Civil Revision Petition.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. From the records, it is seen that the petitioner herein is the tenant/ respondent in R.C.O.P.No.7 of 2011. The respondent/Land Lord has filed the above said RCOP and prayed for eviction and to hand over the possession to the respondent/land lord. The said petition was allowed and the respondent/land lord filed E.P.No.36 of 2014 for delivery of possession and eviction order was passed on 12.06.2015 in the above said execution petition. Against that order, the petitioner/tenant filed E.A.Nos.88 and 89 of 2015, to recall the eviction warrant and not to deliver the eviction order dated 12.06.2015 till the disposal of the stay petition in the R.C.A.No.9 of 2014. He also filed stay petition in the said rent control appeal. The Court staff neither numbered the application for stay nor returned the same. Therefore he filed two applications for E.A.Nos.88 and 89 of 2015 in E.P.No.36 of 2014. The respondent/land lord filed counter and opposed the applications and submitted that both applications are not maintainable. The learned Judge considering the facts and materials on record, dismissed both applications. The petitioner having filed an appeal in R.C.A.No.9 of 2014, ought to have vigilant enough to get the stay petition prayed and obtained order of stay in the rent control appeal. The Execution Court can not deliver the execution order, without an order of stay passed by the Lower Appellate Court. In the circumstances, the learned Judge has rightly dismissed both the applications appreciating the facts in



proper perspective and he exercised the power conferred on him properly. In the circumstances, these Civil Revision Petitions are not maintainable.

7. Accordingly these Civil Revision Petitions are dismissed. No Costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

The District Munsif cum Rent Controller,  
Pudukkottai.

PJL  
TE/SKS-RR/ : 21/04/2016 : 3P/2C

C.R.P (MD) Nos.2188 and 2189 of 2015 (NPD)  
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