



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 14.12.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.2511 of 2016

and

C.M.P(MD)No.11862 of 2016

S.Selvam

.. Petitioner/Petitioner/Respondent/  
Respondent-Tenant

-vs-

V.Jeyakumar

.. Respondent/Respondent/Petitioner  
Petitioner-Landlord

**PRAYER:-** Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order and decreetal order, dated 09.11.2016 made in E.A.No.277 of 2016 in E.P.No.77 of 2015 in R.C.O.P.No.234 of 2006 on the file of the Rent Controller, Additional District Munsif Court, Madurai Town.

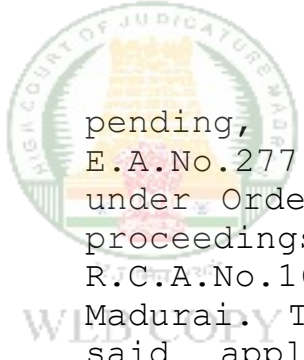
For Petitioner : Mr.V.Janakiramulu

For Respondent : Mr.M.Ponniah

**ORDER**

The petitioner has filed the above Civil Revision Petition against the order and decreetal order, dated 09.11.2016 made in E.A.No.277 of 2016 in E.P.No.77 of 2015 in R.C.O.P.No.234 of 2006 by the Rent Controller, (Additional District Munsif Court), Madurai Town.

2.The revision petitioner is the tenant and petitioner in E.A.No.277 of 2016 and respondent in E.P.No.77 of 2015 in R.C.O.P.No.234 of 2006. The respondent filed a petition in R.C.O.P.No.234 of 2006 before the Additional District Munsif, Madurai for evicting the revision petitioner on the ground of additional accommodation, demolition and reconstruction. In the said Rent Control Original Petition, eviction was ordered on the ground of demolition and reconstruction and dismissed the said R.C.O.P on the ground of additional accommodation. Against the said order of eviction, the revision petitioner filed an appeal in R.C.A.No.16 of 2015 on the file of the Rent Control Appellate Authority (Principal Sub Judge), Madurai. While the said appeal is



pending, the revision petitioner filed an application in E.A.No.277 of 2016 before the Additional District Munsif, Madurai under Order 21 Rule 26 and Section 151 C.P.C., to stay all the proceedings in the Execution Petition till the disposal of R.C.A.No.16 of 2015 on the file of the Principal Sub Judge, Madurai. The Additional District Munsif, Madurai, dismissed the said application. Against the said order of dismissal in E.A.No.277 of 2016, the petitioner has come out with the present Civil Revision Petition.

3. According to the revision petitioner, he is a tenant and he suffered a decree of eviction and he has filed an appeal in R.C.A.No.16 of 2015 on the file of the Principal Sub Judge, Madurai. Against the order of eviction, the petitioner has filed an appeal in E.A.No.277 of 2016 on the file of the Additional District Munsif, Madurai to stay all the proceedings in the Execution Petition in E.P.No.77 of 2015 till the disposal of R.C.A.No.16 of 2015 on the file of the Additional District Munsif, Madurai.

4. The learned counsel for the revision petitioner submitted that the learned Judge dismissed the application holding that no stay order of the Appellate Court has been produced by the petitioner and held that the petitioner having filed an appeal, must obtain an order of stay in the appeal. He would further submit that the learned Judge has failed to properly appreciate the provisions under Order 21 Rule 26 and Section 151 C.P.C., and the respondent is trying to execute the erroneous decree and if the execution proceedings is allowed, it will cause irreparable loss to the revision petitioner.

5. The learned counsel for the respondent filed counter-affidavit and typed-set of papers and submitted that the revision petitioner filed an application in R.C.A.No.16 of 2015 and along with the appeal, he move an application in I.A.No.1 of 2015 seeking for stay of order of eviction. In the said application, the respondent filed counter-affidavit and it was posted for enquiry on number of hearings. The petitioner did not proceed with the stay petition. Subsequently, on 15.09.2015, the main R.C.A itself was posted for arguments on 29.09.2015 and after several hearings, the said R.C.A was referred to Lok Adalak on 04.12.2015 for settlement. There is no settlement, again it was listed for argument on 11.02.2016 as a last chance. The respondent argued the matter on 10.03.2016 and it was posted for petitioner's side argument on 24.03.2016. But the petitioner did not argue the matter and after periodical adjournments, it was posted on 20.12.2016 for petitioner's side argument. The learned counsel for the respondent relied on the Judgment of this Court in

<https://hccerjvscs.courtservice.in/> **R. Senthil Kumar and another vs. S. Ayyalusamy** reported in **2016(2) TNCJ 555 (Mad) (MB)** and **Sivamani and others Vs. Sivasamy and**



**another** reported in **2016(2) TNCJ 557 (Mad) (MB)**.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

7. As per Order 21 Rule 26 C.P.C, the Court may stay the execution petition for a reasonable time to enable the Judgment Debtor to obtain stay in the appeal. In the present case on hand, the petitioner has filed an appeal and along with the appeal, he has filed M.P.No.1 of 2015 for stay of the proceedings and it was periodically adjourned and subsequently, R.C.A itself was posted for final hearing and the counsel for the respondent argued the matter and posted the R.C.A for arguments of the petitioner from 24.03.2016 to 20.12.2016. Therefore, the remedy available to the petitioner is only to approach the Appellate Court for appropriate orders. The learned Judge has exercised his jurisdiction properly and dismissed the application. There is no error or irregularity in the order passed by the Additional District Munsif, Madurai, warranting interference of this Court. Hence, this Civil Revision Petition is liable to be dismissed.

8. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Rent Controller,  
Additional District Munsif Court,  
Madurai.

2. The section officer,  
V.R section,  
Madurai Bench of Madrs High court,  
Madurai.

+1cc to Mr.V.janakiramulu, Advocate Sr.No.80661

+1cc to Mr.M. Ponniah, Advocate Sr.No. 80983

ps

js/12/01/2017/3p-5c