

HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.04.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP.NPD.No.1579 of 2017 and
C.M.P.No.7413 of 2017

1. K.Devan

2. Vrindhakumari

.. Petitioners

Vs.

V.Vijayan

.. Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India to strike off M.P.No.132 of 2015 in R.C.A.No.67 of 2015 pending on the file of the learned VII Judge, Court of Small Causes, Chennai(Rent Controller Appellate Court)

For Petitioner : M/s.Ashok Menon

ORDER

The Petitioners have filed this Civil Revision Petition to strike off M.P.No.132 of 2015 in R.C.A.No.67 of 2015 pending on the file of the learned VII Judge, Court of Small Causes, Chennai(Rent Control

Appellate Authority).

2. According to the petitioners, the petitioners / landlords filed RCOP No.336 of 2012 against the respondent for eviction. The aforesaid RCOP was allowed on 27.10.2014. Thereafter, the petitioners filed E.P.No.26 of 2015 and delivery of vacant possession was ordered by the learned Rent Controller on 06.02.2015. Then, the premises was taken over by the petitioner on 16.02.2015. The aforesaid E.P. came up before the learned Rent Controller on 17.12.2015 and it was stated that on the basis of the bailiff's report, warrant had been executed and possession had been delivered. Then, the learned Rent Controller adjourned the EP to 20.03.2015, since the respondent had obtained stay in M.P.No.132 of 2015 in RCA No.67 of 2015 against the order of eviction passed in RCOP No.336 of 2012, after being dispossessed from the property. The petitioner, only at 6.10 pm on 16.02.2015 came to know that the respondent had obtained an order of interim stay of the execution of the above said order of eviction, by which time the petitioner had taken possession of the property. The petitioner has also stated that the respondent is now in possession of the property as the stay of the order of

eviction continues. Hence, the petitioner has filed this Civil Revision Petition to strike off M.P.No.132 of 2015 in R.C.A.No.67 of 2015.

3. The learned counsel for the petitioners would submit that the petitioners have filed a counter affidavit in the aforesaid miscellaneous petition and the said miscellaneous petition is still pending before the Rent Control Appellate Authority. The learned counsel would also submit that the respondent broke open the petition premises on 16.02.2015 even after possession of the premises had been taken over by the petitioners as per law through Court Bailiff on 16.02.2015. Therefore, the order passed in M.P.No.132 of 2015 is liable to be set aside even at the admission stage of this Civil Revision Petition.

4. Heard the learned counsel for the petitioner and the materials have been perused. The petitioners had obtained an eviction order in RCOP No.336 of 2012 and pursuant to the said order, E.P.No.26 of 2015 was filed by the petitioners and the respondent was dispossessed from the demised property. The respondent got an order of interim stay in M.P.No.132 of 2015 in R.C.A.No.67 of 2015 on 16.02.2015 after being

dispossessed from the property, which is now pending before the VII Judge, Court of Small Causes, Chennai (Rent Control Appellate Authority). The interim stay was granted by the Court on 16.02.2015 and the court below has not disposed of the said M.P.No.132 of 2015 even after two years. Therefore, the petitioners have filed this Civil Revision Petition for the above said prayer. Therefore, to meet the ends of justice, this court is inclined to direct the learned VII Judge, Court of Small Causes, Chennai (Rent Control Appellate Authority) to dispose of M.P.No.132 of 2015 in RCA No.67 of 2015 as expeditiously as possible, preferably on or before 30.06.2017.

5. The Civil Revision Petition is disposed of with the above direction. Consequently, connected Miscellaneous petition is closed. No costs.

26.04.2017

Index : Yes/No
Internet: Yes/No
lok

D.KRISHNAKUMAR.J,

lok

To

The learned VII Judge, Court of Small Causes,
Chennai

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