

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.03.2017

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(NPD)No.292 of 2017

Balraj Vasudevan

.. Appellant

/versus/

U.V.Groups

Rep.by its Chairman & Managing Director

C.Jebagurunathan

.. Respondent

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code praying to set aside the fair and decretal order passed by the learned Subordinate Judge, Poonamallee on 08.12.2016 in I.A.No.266 of 2016 in C.M.A.No.7 of 2016.

For Petitioner :Mr.Sunder Mohan

For Respondent :Mr.C.B.Murailkrishnan

ORDER

The revision petitioner has filed this civil revision petition against the order dated 08.12.2016 passed in I.A.No.266 of 2016 in C.M.A.No.7 of 2016 by the Subordinate Judge, Poonamallee.

2. According to the petitioner, the petitioner is the absolute

owner of land and building measuring to the extent of 9,936 sq.ft. situated at No.144, SIDCO Industrial Estate, Ambattur, Chennai-98. The respondent, who is the tenant under the petitioner's building, has committed wilful default on payment of rent. Therefore, the petitioner has filed a petition in R.C.O.P.No.72 of 2013 against M/s Auto Motive & Industrial Seals Private Ltd., on the ground of wilful default and owners occupation. After *ex-parte* evidence was taken, *ex-parte* decree was passed on 08.06.2015. Thereafter, the petitioner has filed an execution petition in E.P.No.16 of 2015 in R.C.O.P.No.72 of 2013 for delivery of vacant possession of the schedule mentioned property and the said petition was allowed on 13.04.2016.

3. Thereafter, E.A.No.95 of 2016 is filed by the respondent against the application in E.A.No.86 of 2016, which was filed by the petitioner/decreed holder to break open the lock and hand over the vacant possession of the petitioner's property; E.A.No.96 of 2016 is filed against the application in E.A.No.85 of 2016, which was filed by the petitioner/decreed holder for police aid to execute the warrant of delivery; E.A.No.97 of 2016 is filed against the stay order of execution petition in E.P.No.16 of 2016; E.A.No.98 of 2016 is filed against the order of stay of recall warrant of removal of obstruction and E.A.No.99 of 2016 is filed

against E.A.No.87 of 2016, which was filed by the decree holder for disconnection of electricity service connection availed by the judgment-debtor. The aforesaid applications were dismissed on 26.09.2016. Against the aforesaid order of dismissal, the respondent has filed an appeal in C.M.A.No.7 of 2016 before the Rent Control Appellate Authority-Sub Court, Poonamallee.

4. By order dated 08.12.2016 in I.A.No.266 of 2016 in C.M.A.No.7 of 2016, the appellate Court has granted interim stay by stating reason in para 8 of the order.

5. Aggrieved by the said order, the petitioner herein has filed the present revision before this Court stating that the appellate Court ought to have dismissed the said application instead of granting interim stay of the execution petition and the respondent herein has abused the process of law and filed an appeal in C.M.A.No.7 of 2016 before the Rent Control Appellate Authority and therefore, the interim order granted by the appellate Court is liable to be set aside.

6. The learned counsel appearing for the respondent would submit

that the contention raised by the petitioner shall be considered only at the stage of hearing in the appeal, which is now pending before the Sub Court, Poonamallee. The allegations of the petitioner are denied by the respondent herein. Further, the learned counsel appearing for the respondent would submit that after hearing both the parties concerned, the appellate Court has granted interim stay of operation of the order dated 26.09.2016 passed in the execution petition. Therefore, no prejudice would be caused to the petitioner by granting interim stay, pending the appeal. If the interim order is vacated, the respondent will be put to irreparable loss and hardship and the same cannot be compensated. Therefore, he prays that this civil revision petition may be dismissed.

7. The contention of the petitioner raised before this Court is that the respondent herein has filed the Interlocutory Application in I.A.No.266 of 2016, which is nothing but abuse of process of the Court and therefore, granting of stay by the appellate Court in C.M.A.No.7 of 2016 is unsustainable. According to the petitioner, he has already taken possession of the property and the respondent has already handed over the possession of the demised suit schedule property to the petitioner. But, the learned counsel for the respondent has disputed the said factum of possession of the property by the petitioner. Therefore, the learned counsel

appearing for the respondent would submit that at this stage, the issue cannot be decided by this Court, since the appeal is pending before the appellate Court and the same shall be decided only at the time of final disposal of the appeal. However, the appellate Court has stated reasons in paragraph No.8 of the order dated 08.12.2016 for granting interim stay. Since the interim stay was granted to safeguard the interest of both the parties, this Court is of the view that no interference warrants in the order passed by the appellate Court. Hence, the Civil Revision Petition is liable to be dismissed.

8. On instructions, the learned counsel for both the parties undertake that they will co-operate to dispose of the appeal in C.M.A.No.7 of 2016 pending before the Rent Control Appellate Authority-Subordinate Court, Poonamallee, within a time frame to be fixed by this Court.

9. In view of the submissions made by both the counsel and in the interest of justice, the learned Rent Control Appellate Authority-Sub Court, Poonamallee, is directed to dispose of the appeal in C.M.A.No.7 of 2016 on merits and in accordance with law, on or before 30th April, 2017.

10. With the above direction, the Civil Revision Petition is

dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

10.03.2017

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Note: Issue order copy on 15.03.2017

To

The learned Subordinate Judge, Poonamallee.

D.Krishnakumar, J.

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