

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (NPD) No. 4227 of 2017
and
C.M.P. No. 19809 of 2017

M. Sugumar

.. Petitioner

Vs

R. Kosalaram

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 25.10.2017 made in E.A. No. 34 of 2017 in E.P. No.55 of 2016 in RCOP No.10 of 2013 on the file of II Additional District Munsif at Vellore.

For Petitioner : Mr. P. Chandrasekar

For Respondent : Mr. Ganapathy
for Mr. R. Margabandhu

ORDER

This revision arises against the fair and decreetal order dated 25.10.2017 made in E.A. No. 34 of 2017 in E.P. No.55 of 2016 in

RCOP No. 10 of 2013 on the file of II Additional District Munsif at Vellore.

2. The learned counsel for the petitioner would submit that the revision petitioner has filed the RCA No. 19 of 2016 before the Rent Control Authority, Vellore. Along with the appeal, the petitioner has also filed an Interlocutory Application in I.A. No. 102 of 2016, to stay all further proceedings in RCOP No.10/2013. Notice has been served on the respondent and the same was pending. Whiles, the respondent initiated execution proceedings in E.P. NO.55 of 2016. Against the said petition, the revision petitioner filed E.A. No.34 of 2017, seeking to stay the execution proceedings, pending disposal of the appeal before the Rent Control Appellate Authority. According to the petitioner, the said application has been erroneously dismissed by the Appellate Court, without considering the pendency of the stay application in the execution proceedings. The learned counsel for the petitioner would further submit that if the execution proceedings is executed by the Executing Court, the petitioner would be put to great hardship and the same cannot be compensated by any means. Therefore, the present revision

petition has been filed before this Court.

3. The learned counsel for the respondent has filed the counter affidavit and submitted that the Executing Court has rightly dismissed the petition, stating that when the appeal is pending before the Appellate Court, the stay petition cannot be entertained by the Executing court.

4. In view of the above submission of the learned counsel for the parties and on perusal of the records, it is clear that the revision petitioner has filed an appeal before the Appellate Authority, along with the petition to stay the proceedings in RCOP No.10/2013 and the same is pending. The learned counsel for the respondent would also submit that the stay application is pending and the counter affidavit has been filed in the said application. Therefore, at this stage, this Court is inclined to direct the Rent Control Appellate Authority, to dispose of the stay application, within a period of four weeks from the date of receipt of a copy of this order. The learned counsel for the respondent undertakes that till such time, the respondent will not proceed further in the RCOP.

D. KRISHNAKUMAR J.,

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

27.11.2017

Index : Yes/ No

Speaking order/ Non speaking order

[Issue order copy next week]

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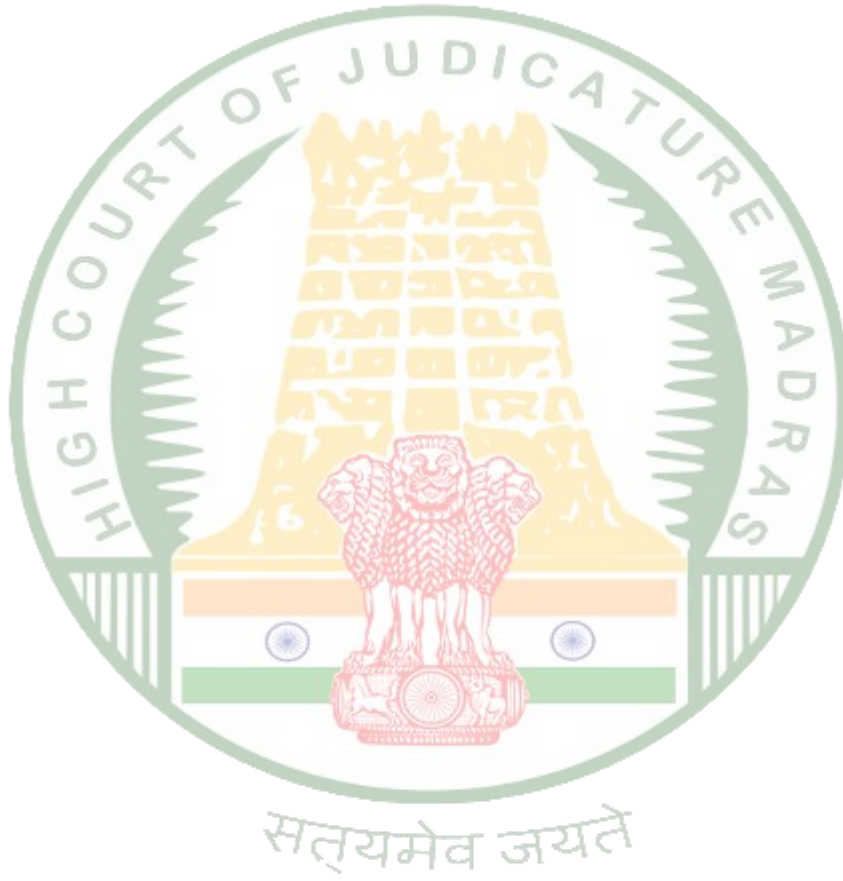
To

1. The Subordinate Judge
[Rent Control Appellate Authority]
Vellore.

2. The II Additional District Munsif
[Rent Control Authority]
Vellore.

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