

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P. (NPD) No.948 of 2017

and

C.M.P No.4720 of 2017

P. Rathinammal
Petitioner

...

VS.

Mrs. Anusuya

... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decretal order dated 20.01.2017 made in E.A. No. 109 of 2016 in E.P.No.3 of 2016 in R.C.O.P. No. 7 of 2014 on the file of Principal District Munsif Court, Erode.

For Petitioner : Mr. N. Manokaran

For respondent : No Appearance

ORDER

This Civil Revision Petition arises against the fair and decretal order dated 20.01.2017 made in E.A. No. 109 of 2016 in

E.P.No.3 of 2016 in R.C.O.P. No. 7 of 2014 on the file of Principal District Munsif Court, Erode.

2. Against the decree passed in the eviction petition filed by the respondent, the petitioner filed an appeal along with I.A. No.181 of 2015 to condone the delay of 88 days. In the meantime, the respondent filed E.P. No. 3 of 2016, for eviction before the Principal District Munsif (Rent Controller), Erode, in which the petitioner filed E.A. No.109 of 2016 to stay the execution proceedings. However, the same was dismissed directing the petitioner to work out his remedy in the appeal, before the appellate court. Against the same, the petitioner has filed the present Revision Petition.

3. Learned counsel for the petitioner submitted that the respondent is the sister of her husband. Subsequent to the partition deed dated 11.03.2002, the respondent and the petitioner's husband executed a consent deed stating that the petitioner shall collect rent for the subject property and enjoy the property till her life time. The son and his wife has witnessed the document. Hence, there is no relationship as tenant and landlord between the petitioner and the respondent.

4. It is the case of the respondent that the petitioner is only a tenant in the subject property and as the respondent requires the property for her use now, she has sought the petitioner to vacate. Further, the petitioner has property of her own near the subject property and only in order to grab the property she is refusing to vacate the subject property.

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

6. As stated by the learned counsel for the petitioner, the respondent has entered appearance and filed counter statement in I.A. No.181/2015, application seeking to condone the delay in filing the appeal. Now the said application is posted for enquiry. It is the plea of the petitioner that at this stage, the application filed seeking to stay the execution proceedings pending appeal, may not be accepted. However, this Court shall direct the Appellate Court, namely, the Subordinate Judge (Rent Controller Appellate Authority), Erode to dispose of the said application, as expeditiously as possible.

7. Considering the limited prayer sought for, by the

learned counsel for the petitioner and taking into consideration the above said submission, this Court directs the learned Subordinate Judge (Rent Controller Appellate Authority), Erode to dispose of the application of the petitioner in I.A. No.181 of 2015, in accordance with law, as expeditiously as possible, preferably on or before 30th April 2017.

8. This Civil Revision Petition is disposed of, with the above direction, at the stage of admission itself. Consequently, the Connected Miscellaneous Petition is closed. No order as to costs.

23.03.2017

Index : yes / no

[Issue order copy today i.e.28.03.2017]

avr

To

1. The Subordinate Judge
(Rent Controller Appellate Authority),
Erode.
2. The Principal District Munsif Court,
Erode.

D.KRISHNAKUMAR, J.

avr

C.R.P.(NPD) No.948 of 2017
and
C.M.P No.4720 of 2017

23.03.2017