



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.721 of 2017 and
C.R.P.(MD)No.884 of 2018 &
C.M.P.(MD)No.3906 of 2018

C.R.P.(MD)No.721 of 2017

P.Arun Kannan

... Petitioner/Petitioner/
Plaintiff

Vs.

R.Muthushamy

... Respondent/Respondent/
Defendant

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order dated 06.03.2017 made in I.A.No.625 of 2016 in O.S.No.203 of 2011 on the file of the learned Subordinate Judge, Theni and allow the above Civil Revision petition.

For Petitioner
For Respondent

: Mr.M.Karuppasamy Pandian
: Mr.Pala Ramasamy

C.R.P.(MD)No.884 of 2018

P.Arun Kannan

... Petitioner/Petitioner/Petitioner/
Respondent/Tenant

Vs.

R.Muthushamy

... Respondent/Respondent/Respondent/
Petitioner/Landlord

PRAYER : Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the return order dated 12.03.2018 made in unnumbered E.A.No. of 2018 in E.A.No.87 of 2017 in E.P.No.8 of 2015 in R.C.O.P.No.10 of 2013 on the file of the learned District Munsif, Theni and to direct to number the same and decide the same on merits.



For Petitioner
For Respondent

: Mr.M.Karuppasamy Pandian
: Mr.Pala Ramasamy

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C O M M O N O R D E R

The Revision petitioner filed O.S.No.203 of 2011 on the file of the Subordinate Court, Theni, for restraining the landlord from dispossessing him except in the manner known to law. The said suit was dismissed for default. To restore the same, the tenant filed a petition. Again there was a delay of 602 days in filing the said petition. To condone the same, I.A.No.625 of 2016 was filed. The Court below by order dated 06.03.2017, dismissed the said application. Questioning the same, C.R.P.(MD)No.721 of 2017 has been filed.

2. This Court notes that the landlord has already taken steps to vacate the Revision petitioner only in the manner known to law by filing R.C.O.P.No.10 of 2013. The learned counsel for the landlord undertakes that they will pursue only the execution proceedings which are already pending and they will not take out any other proceedings. The said undertaking of the learned counsel is taken on record. Therefore, nothing survives for adjudication in C.R.P.(MD)No.721 of 2017. The Civil Revision petition stands disposed of, accordingly. No costs.

3. In the meanwhile, the landlord has filed E.P.No.8 of 2015 for executing the order obtained in R.C.O.P.No.10 of 2013. In the said execution petition, the tenant filed applications for staying the proceedings in question. They were originally returned and later rejected. The tenant filed E.A.No.87 of 2017 for staying the E.P., and the same was dismissed. Therefore, one more E.A., was filed. The said E.A., was not numbered and rejected at the threshold stage. Questioning the same, C.R.P.(MD)No.884 of 2018 has been filed.

4. This Court is of the view that when the landlord has obtained an order of eviction in R.C.O.P.10 of 2013, the Executing Court cannot stay the proceedings. In this view of the matter, the order impugned in this Civil Revision petition is sustained. C.R.P.(MD)No.884 of 2018 stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-III)



To

1. The Subordinate Judge cum Rent Control Appellate Authority,
Theni.

2. The District Munsif,
Theni.

3. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai. 2 COPIES

+2 CC TO Mr.Pala Ramasamy , ADVOCATE IN SR No. 83644,83641.

+ 1 CC TO Mr.K.KARUPPASAMY , ADVOCATE IN SR No. 83520.

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