



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 02.02.2018

CORAM:

THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD).No.449 of 2011 (PD)

and

M.P(MD).No.1 of 2011

WEB COPY

1.Nagoji Rao

2.Radhakrishnan

... Petitioners/Petitioners/Defendants

-vs-

Murugesan

... Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 31.08.2010 made in I.A.No.125 of 2010 in O.S.No.351 of 2008 on the file of I Additional District Munsif Court, Kumbakonam.

For Petitioners

: No appearance

For Respondent

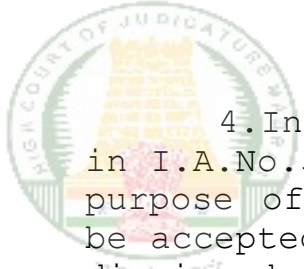
: Mr.T.V.Sivakumar

O R D E R

This civil revision petition has been preferred against the fair and decreetal order dated 31.08.2010 passed in I.A.No.125 of 2010 in O.S.No.351 of 2008 on the file of the I Additional District Munsif Court, Kumbakonam.

2.The respondent herein filed a suit in O.S.No.351 of 2008 on the file of the I Additional District Munsif Court, Kumbakonam for recovery of the amount due under a mortgage. In the said suit, written statement was filed. Thereafter, the petitioners herein/respondents filed I.A.No.125 of 2010 seeking to stay all further proceedings of the case till the disposal of the RCOP.No.10 of 2006 pending before the Rent Controller/Principal District Munsif Court, Kumbakonam.

3.A perusal of the interlocutory application, it is seen that the petitioners are the brothers. The respondent/plaintiff had filed the above suit for the recovery of the amount under a mortgage deed. The respondent/plaintiff is also the tenant of the said mortgaged property under the agreement dated 01.04.1996. As per the said agreement, both the parties have agreed that the interest arising out of the mortgage should be adjusted towards the rent payable by the plaintiff. It was also agreed between the parties to the effect that the respondent/plaintiff has to handover the possession of the mortgaged property to the petitioners/defendants at the time of payment of the mortgage amount. While so, the petitioners herein filed in RCOP.No.10 of 2006 before the Rent Controller/Principal District Munsif, Kumbakonam to evict the respondent/Plaintiff. The first petitioner herein was examined as P.W.1. The respondent/plaintiff had objected for marking the said agreement.



4. In the said Rent Control Original Petition, an application in I.A.No.57 of 2008 was filed by the plaintiff/respondent for the purpose of deciding the question whether the said agreement, can be accepted by the Court or not. The said interim application was dismissed. Aggrieved by the same, the plaintiff filed an appeal before the Rent Control Appellate Authority/Sub-Court, Kumbakonam. But the same was not taken on file. Hence, the respondent/plaintiff filed CRP(MD).No.698 of 2009 before this Court. This Court, directed the Rent Control Appellate Authority/Sub-Court, Kumbakonam, to number the appeal and to decide the matter on merits. Pursuant to the order of this Court, the Rent control Appellate Authority/Sub-Court, Kumbakonam, had taken the appeal on file in RCA.No.4 of 2010 and the same is pending.

5. While so, the petitioners/defendants filed IA.No.125 of 2010 on the file of the Additional District Munsif Court, Kumbakonam to stay all further proceeding till the disposal of the RCOP.No.10 of 2006 pending before the Rent Controller/Principal District Munsif Court, Kumbakonam, stating that the said agreement is the material document to substantiate their contention. The said document was filed in RCOP.No.10 of 2006 on the file of the Rent Controller, Kumbakonam. The Rent Controller is not able to proceed with the matter because of pendency of RCA. Therefore, the petitioners/defendants filed the above said interlocutory application for the relief stated supra. The trial Court, dismissed the said interlocutory application on the ground that it is not necessary to stay the entire proceedings of the suit in O.S.No.351 of 2008, till the disposal of RCOP.No.10 of 2006 because the facts of the cases are entirely different. Aggrieved by the same, the present civil revision petition has been filed.

6. On perusal of the records, it is seen that the reason for staying the proceeding of the suit till the disposal of the RCOP was not stated by the petitioners. When the relief sought in the suit is entirely different, in the absence of any reason for staying the proceedings of the pending suit, the said interlocutory application was dismissed by the Trial Court. In the considered opinion of this Court, the trial Court has rightly rejected the interlocutory application.

7. Hence, nothing survives for further adjudication in this petition. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CO)



To:

1. The I Additional District Munsif Court,
Kumbakonam.

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2. The Record Keeper, (2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.H.Lakshmi Shankar, Advocate Sr.No.46049

+1cc to Mr.I.Irullappan, Advocate Sr.No.46058

RMK

VB/JC/SAR3/30.05.2018/3P/6C

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