

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2019

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

C.R.P.No.1091 of 2019

and

C.M.P.No.7179 of 2019

Mr.Varadarajan Petitioner

Vs

Mr.D.Prakash Respondent

PRAYER: This Civil Revision Petition has been filed praying to struck off the proceedings in R.C.A.No.5 of 2018 pending on the file of the Subordinate Judge, Poonamallee in M.P.No.08 of 2018 in R.C.O.P.No.17 of 2014 on the file of the Rent Controller cum District Munsif at Ambattur.

For Petitioner : Mr.T.Arockia Dass

O R D E R

The above Civil Revision Petition has been filed challenging the order of stay granted by the learned Subordinate Judge (Rent Control Appellate Authority), Poonamallee in I.A.No.79 of 2018 in R.C.A.No.5 of 2018 staying all further proceedings in M.P.No.8 of 2018 in R.C.O.P.No.17 of 2014 on the file of the Rent Controller (District Munsif), Ambur.

2.The main contention that has been put forward by the learned Counsel for the petitioner is that M.P.No.8 of 2018 as against which the Rent Control Appeal has been filed is itself not maintainable. The order of eviction passed in R.C.O.P.No.17 of 2014 is not an exparte decree and it is a contested order and it is an issue which has to be decided in the appeal. It is also contended that the tenant has been in arrears since 2011. Necessary petition under Section 11 (3) of the Rent Control Act has been filed by the landlord before the Rent Control Appellate Authority and therefore, the order of stay has to be revised. This argument cannot be countenanced because unless there is a stay pending till the appeal is heard orders will be passed in

the execution petition, the very appeal will become infructuous. Therefore, the petitioner cannot question the stay granted by the Court, especially stay granted on a prima facie case being shown.

3.It is now stated by the Counsel for the respondent that a petition has been filed by the landlord claiming the arrears of rent before the Rent Control Appellate Authority. The Rent Control Appellate Authority is directed to dispose of the said petition within a period of four weeks from the date of receipt of the copy of this Order.

4.Hence, I do not find any infirmity in the order granting stay and therefore, this Civil Revision Petition is dismissed, however, with a direction for speedy disposal of the application filed under Section 11 (3) of the Rent Control Act by the landlord before the Rent Control Appellate Authority.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

ay
To

1. The Rent Controller cum District Munsif at Ambattur
2. The Subordinate Judge,
The Rent Controller Appellate Authority
Poonamallee

+1cc to Mr.Dass Viswa Associates, Advocate SR.No.28091

सत्यमेव जयते

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SPD(CO)
GMY(03/05/2019)

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