



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.(PD) No.3713 of 2019
and C.M.P.No.24387 of 2019

C.P.Sudhakar

... Petitioner/Tenant

-Vs-

J.S.Raghusekar

... Respondent/Landlord

Prayer : Civil Revision Petition under Section 115 of the Code of Civil Procedure against the fair and decreetal order dated 01.10.2019 made in E.A.SR.No.5139 of 2019 in E.P.No.97 of 2018 in R.C.O.P.No.5 of 2017 on the file of the Additional District Munsif, Vellore District in R.C.A.No.17 of 2018 on the file of the Subordinate Judge at Vellore, Vellore District.

For Petitioner : Mr.P.Chandrasekar

For Respondent : Mr.K.P.Ashok

O R D E R

This revision petition has been filed against the fair and decreetal order dated 01.10.2019 made in E.A.SR.No.5139 of 2019 in E.P.No.97 of 2018 in R.C.O.P.No.5 of 2017 on the file of the Additional District Munsif, Vellore District in R.C.A.No.17 of 2018 on the file of the Subordinate Judge at Vellore, Vellore District.

2. Heard the learned counsel for the revision petitioner and the learned counsel for the respondent, who entered appearance through Caveat.

3. Before the Court below, the tenant has filed the said E.A.SR.No.5139/2019 in the said E.P.No.97 of 2018 under Section 47 of C.P.C., to declare that the order passed in R.C.O.P.No.5 of 2017 is inexecutable and dismiss the said E.P.

3. Learned counsel for the petitioner would submit that, as against the order of eviction passed in R.C.O.P., appeal has been preferred by him in R.C.A.No.17 of 2018, where he has filed I.A.No.183 of 2018 to stay the operation of the order passed in R.C.O.P.No.5 of 2017, which is yet to be decided and it is pending. Learned counsel further submits that, even though it is pending, the Execution Court is not waiting for the decision to be taken in the I.A., pending before the first



appellate Court and instead the Execution Court is proceeding further. Therefore, if at all this Court is not inclined to entertain this Civil Revision Petition on merits, a direction can be given to the first appellate Court, where the I.A., as well as the R.C.A., are pending, to decide at least the I.A., within a time frame.

4. This plea raised by the learned counsel for the revision petitioner is opposed by the learned counsel for the respondent, who would submit that if at all this Court wants to decide the I.A., let there be a direction to the first appellate Court to decide the R.C.A., along with the I.A.

5. I have considered the submissions made on behalf of the learned counsel on either side and also perused the materials placed on record.

6. Considering the facts and circumstances of the case, this Court feels that since the execution petition has already been filed to execute the order passed in the R.C.O.P., unless and until the petition seeking stay of the R.C.O.P., order is decided by the first appellate Court and in the meanwhile, if the E.P. is proceeded, then the I.A., would become infructuous and therefore, instead of making it infructuous, the first appellate Court can be directed to take up I.A.No.183 of 2018 and dispose of the same on merits and in accordance with law within a time frame.

7. In that view of the matter, this C.R.P. is disposed of with the following direction.

The first appellate Court viz., the Sub Court, Vellore, where R.C.A.No.17 of 2018 is pending, is hereby directed to decide the I.A.No.183 of 2018 in R.C.A.No.17 of 2018, within 30 (thirty) days from the date of receipt of a copy of this order.

8. The Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

19.11.2019

BEING MENTIONED

This matter having been listed under the caption for "Being Mentioned" on 03/12/2019 pursuant to the order of this court dated 19/11/2019 and made herein in the presence of the aforesaid counsels on the eitherside, the court made the following order:

This Civil Revision Petition has been listed today "for being mentioned", at the instance of the learned counsel for the revision petitioner.



2. This Revision Petition was disposed of by the order dated 19.11.2019, where at the operative portion of the order ie., at paragraph No.7, the following content was also dictated.

"It is made clear that till a decision is taken by the first appellate Court as indicated above in I.A.No.183 of 2018, the Execution Petition in E.P.No.97 of 2018 pending before the learned Additional District Munsif, Vellore shall not be proceeded with".

3. However, due to inadvertence, the said content was not typed. Therefore, without the said content, the order has been made ready and a copy of the same has been served on the learned counsel for the petitioner. On receipt of the same, after noticing the omission, the learned counsel for the petitioner made a mention before this court and that is how, this matter is being listed today under the caption "for being mentioned".

4. Today, the learned counsel for the petitioner as well as the learned counsel for the respondent appeared, and the learned counsel for the respondent very fairly submitted that the said portion, which was dictated on the other day omitted due to inadvertence, can be inserted and in fact on the understanding of the said portion of the order, the Execution Petition before the Court below has already been deferred to 18.12.2019.

5. In view of the above, the aforesaid left out portion in paragraph No.7 of the order dated 19.11.2019 shall be inserted and the Registry is directed to issue the corrected copy of the order to the parties through their respective counsel immediately.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Additional District Munsif,
Vellore.



+2cc to M/s.P.Chandrasekar, Advocate Sr.100859
+1cc to M/s.K.P.Ashok, Advocate Sr.96311

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C.R.P. (NPD) No.3713 of 2019

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