



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CRP(MD)No.1534 of 2019
and
CMP(MD)No.8051 of 2019

Muthiah Pillai ... Petitioner/Respondent/Defendant
versus

Mangalam
Rep. by his Power Agent
Mr.R.Jeyaprakash ... Respondent/Respondent/Plaintiff

Civil Revision Petition filed under Article 227 of the Constitution of India, seeking a direction to the learned District Munsif, Srivaikundam, to stay E.P.No.5 of 2019 till the disposal of I.A.No.7 of 2019 in A.S.unnumbered/2019.

For Petitioner : Mr.R.Ramasamy

ORDER

The revision petitioner is the defendant in O.S.No.49 of 2017 on the file of the District Munsif Court, Srivaikundam.

2. Originally, the respondent herein filed a suit in O.S.No.49 of 2017 before the District Munsif Court, Srivaikundam, for eviction and also for damages for use and occupation.

3. After considering the oral and documentary evidence, the learned trial Judge decreed the suit in favour of the plaintiff/respondent herein and directed the defendant/revision petitioner to hand over the possession within a period of two months and also directed to pay Rs.750/- per month as damages for use and occupation, from the date of plaint till the date of handing over the possession. Aggrieved over the same, the defendant/revision petitioner filed an appeal along with the application to condone the delay of 28 days in filing the appeal before the Sub Court, Tiruchendur and the said delay application was numbered as I.A.No.7 of 2019. In the mean time, the respondent/decreed-holder filed execution petition in E.P.No.5 of 2019 in O.S.No.49 of 2017, wherein, the revision petitioner also filed his counter. Now, the respondent/decreed-holder is pressurizing the Executing Court to



execute the decree passed in O.S.No.49 of 2017. Hence, the revision petitioner is before this Court.

4. The learned counsel appearing for the revision petitioner submits that when the delay application is pending before the Sub Court, Tiruchendur, it is not fair on the part of the decree-holder to pressurize the Executing Court to execute the decree. Hence, he seeks direction of this Court to the learned District Munsif, Srivaikundam, to stay E.P.No.5 of 2019 till the disposal of I.A.No.7 of 2019 in the unnumbered Appeal Suit.

5. The learned counsel appearing for the revision petitioner also seeks a direction of this Court to direct the Appellate Court to dispose of the delay application filed by the revision petitioner, by contending that in a similar case, this Court, in the case of K.Sankaranarayana Pillayan vs. R.Chellappa and A.S.Mahendrakumar, had also given a direction to the Appellate Court to dispose of the delay application.

6. In the Judgment relied upon by the learned counsel for the revision petitioner as cited above, this Court has held as follows:

"6. The Rent Controller Appellate Authority, Tirunelveli, is directed to dispose of the application in I.A.No.85 of 2013 within a period of two weeks from the date of receipt of a copy of this order, in case, the appellate Judge is condoning the delay and numbering the appeal, execution should be stayed till the disposal of appeal."

7. Following the directions given by this Court in the Judgment as cited above and also considering the facts and circumstances of this case, this Court directs the Sub Court, Tiruchendur, to dispose of the application in I.A.No.7 of 2019, within a period of two weeks from the date of receipt of a copy of this order and in the event of condoning the delay and numbering the appeal, execution should be stayed till the disposal of appeal.

8. With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To

1. The Subordinate Judge,
Tiruchendur.

2. The District Munsif,
Srivaikundam

+1 CC to M/s.R.RAMASAMY, Advocate (SR-14848[I] dated 05/09/2019)

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