



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)Nos.234, 235, 236, 237, 238 & 239 of 2020

and

C.M.P(MD)Nos.1466, 1467, 1469, 1473, 1475 and 1477 of 2020

Amuthavalli

...Petitioner in all CRPs

-Vs-

K.P.Raja	... Respondent in CRP(MD)No.234/2020
K.Kamurddin	... Respondent in CRP(MD)No.235/2020
K.Ganesh	... Respondent in CRP(MD)No.236/2020
K.Appas	... Respondent in CRP(MD)No.237/2020
T.R.Jahangir Batcha	... Respondent in CRP(MD)No.238/2020
A.Vasu	... Respondent in CRP(MD)No.239/2020

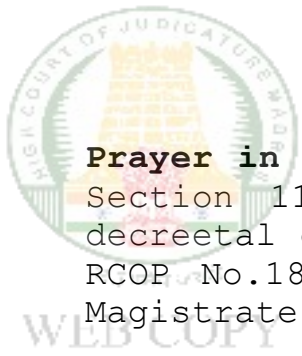
PRAYER in C.R.P(MD).No.234 of 2020: The Petition has been filed under Section 115 of Code of Civil Procedure, against the order and decreetal order in E.A.No.22 of 2018 in E.P.No.2 of 2017 in RCOP.No.1 of 2015 on the file of the District Munsif Cum Judicial Magistrate, Kodaikanal, dated 31.10.2019.

Prayer in CRP(MD). 235/ 2020 : This petition has been filed under Section 115 of Code of Civil Procedure against the order and decreetal order passed in E.A.No.24 of 2018 in E.P.No.4 of 2017 in RCOP No.9 of 2015 on the file of District Munsif cum Judicial Magistrate, Kodaikanal, dated 31.10.2019.

Prayer in CRP(MD). 236/ 2020 : This petition has been filed under Section 115 of Code of Civil Procedure against the order and decreetal order passed in E.A.No.25 of 2018 in E.P.No.5 of 2017 in RCOP No.14 of 2015 on the file of District Munsif cum Judicial Magistrate, Kodaikanal, dated 31.10.2019.

Prayer in CRP(MD). 237/ 2020 : This petition has been filed under Section 115 of Code of Civil Procedure against the order and decreetal order passed in E.A.No.26 of 2018 in E.P.No.6 of 2017 in RCOP No.17 of 2015 on the file of District Munsif cum Judicial Magistrate, Kodaikanal, dated 31.10.2019.

Prayer in CRP(MD). 238/ 2020 : This petition has been filed under Section 115 of Code of Civil Procedure against the order and decreetal order passed in E.A.No.23 of 2018 in E.P.No.3 of 2017 in RCOP No.3 of 2015 on the file of District Munsif cum Judicial Magistrate, Kodaikanal, dated 31.10.2019.



Prayer in CRP(MD) . 239/ 2020 : This petition has been filed under Section 115 of Code of Civil Procedure against the order and decreetal order passed in E.A.No.27 of 2018 in E.P.No.7 of 2017 in RCOP No.18 of 2015 on the file of District Munsif cum Judicial Magistrate, Kodaikanal, dated 31.10.2019.

(in all the petitions)

For Petitioner : Mr.V.M.Balamohan Thampi

For Respondents : Mr.C.Bharathi

COMMON ORDER

These Civil Revision Petitions have been filed to set aside the order and decreetal orders passed in E.A.Nos.22, 24, 25, 26, 23 and 27 of 2018 in E.P.Nos. 2, 4, 5, 6, 3 and 7 of 2017 in R.C.O.P.Nos.1, 9,14,17, 3 and 18 of 2015 respectively on the file of the District Munsif Cum Judicial Magistrate, Kodaikanal, dated 31.10.2019.

2.The revision petitioner is the landlord and the respondents are the tenants. The revision petitioner filed the petitions before the District Munsif Cum Judicial Magistrate, Kodaikanal against the respondents for eviction on the ground of wilful default where the respondents did not appear, exparte orders were passed. Thereafter, the petitioner filed the Execution Petitions. Subsequent to that, the respondents had filed the applications in E.A.Nos.22, 24, 25, 26, 23 and 27 of 2018 seeking to stay the execution proceedings till the disposal of delay condonation and exparte set aside petitions filed by them. After hearing the cases, the learned District Munsif Cum Judicial Magistrate, Kodaikanal allowed the above applications. Against the said orders, the present Civil Revision Petitions have been filed by the petitioner.

3.The learned counsel for the petitioner submitted that the respondents have not paid the rent from 01.09.2013 to till date and without paying the rent, they are enjoying the suit building. He further submitted that the respondents entered appearance though their Advocates in EP on 16.02.2017 and they filed the stay petitions after 1-½ years. Since exparte set aside petitions are pending before the very same Court, the stay of EP proceedings will not arise. Therefore, he prays to set aside the order passed by the trial Court in E.A.Nos.22, 24, 25, 26, 23 and 27 of 2018 and allow these Civil Revision Petitions.

4.Hear the learned counsel appearing for the petitioner as



well as the respondents and perused the materials available on record.

5. On perusal of record shows that the applications in E.A.Nos.22, 24, 25, 26, 23 and 27 of 2018 in E.P.Nos. 2, 4, 5, 6, 3 and 7 of 2017 in R.C.O.P.Nos.1, 9, 14,17, 3 and 18 of 2015 respectively on the file of the District Munsif Cum Judicial Magistrate, Kodaikanal, have been filed by the respondents under Order 21 Rule 26 and Section 151 of C.P.C to stay the Execution Proceedings till the disposal of the condone delay petitions and the exparte set aside petitions where the learned Magistrate stayed the execution proceedings till the disposal of the condone delay petitions and exparte set aside petitions. It is seen that the Exparte orders have been passed in main RCOPs on 09.02.2016 itself and the applications for stay of execution proceedings till the condonation of delay petitions and exparte set aside petitions have been filed in the year 2018 which shows that after a period of 1 ½ years the said petitions were filed.

6. Considering the facts and circumstances of the case, without advertting to the merits of the case, this Court is of the view, ends of justice would be met if a direction is given to the Court below to dispose of condone delay petitions and the exparte set aside petitions within a time frame. Accordingly, the District Munsif Cum Judicial Magistrate, Kodaikanal, is directed to dispose the condone delay petitions in I.A.Nos.2, 4, 6, 7, 3 and 8 of 2018 and exparte set aside petitions in I.A.Nos.15, 17, 19, 20, 16 and 21 of 2018 in R.C.O.P.Nos.1, 9, 14,17, 3 and 18 of 2015, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. The interim order granted in the above Execution Applications will be in force till three months. If the respondents/tenants are not co-operating in concluding the delay petition and exparte set aside petition, the petitioner is at liberty to proceed with the Execution petition.

7. With the above direction, these Civil Revision Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



To

The District Munsif Cum Judicial Magistrate
Kodaikanal.

+6 CC to MR.V.M.BALAMOCHAN THAMBI, Advocate (SR-1568[F] dated
21/01/2021)

C.R.P (MD) Nos.234, 235, 236, 237, 238 & 239 of 2020

and

C.M.P (MD) Nos.1466, 1467, 1469, 1473, 1475 and 1477 of 2020
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