



C.R.P.(PD) No.720 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(PD) No.720 of 2022
and C.M.P.No.3614 of 2022

Usha Raveendran ... Petitioner / Respondent

Vs.

N.C.Kandasamy ... Respondent / Petitioner

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the petition docket order dated 21.02.2022 in E.P.No.1059 of 2021 passed by the Hon'ble XII Small Causes Judge and pass such other further orders as it may deem fit and proper.

For Petitioner : Mr.D.Ferdinand

ORDER

The revision petitioner is a tenant in RCOP No.1447 of 2015 on the file of the XII Small Causes Court, Chennai. The RCOP was allowed and the matter was taken in appeal in RCA No.206 of 2020 and is now pending



C.R.P.(PD) No.720 of 2022

before VII Small Causes Court, Chennai.

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2. The learned counsel submitted that he has moved an application for stay for Execution Proceedings before the Rent Control Appellate Authority, but the learned Appellate Authority ordered notice on the same. In the mean time, the landlord/respondent moved the Rent Controller/ for executing the eviction order in EP No.1059 of 2021. The learned counsel further submitted that RCOP No.1447 of 2015 is posted for return of notice on 25.03.2022, whereas, the Execution Court has posted the matter tomorrow.

The Execution Court has passed the following order:

"Both side counsel present. Respondent counsel present and submitted that no stay is pending. The counsel for the respondent submitted that RCA No.206 of 2021 was posted to 03.03.2022. Contested eviction order was passed in this matter. This Court already noted in 17.02.2021 adjudication that suitable order. Till date no stay has been granted. Hence, in the interest of justice, this Court is inclined to order delivery. The Decree holder shall pay the process after 03.03.2022 if no stay is granted in RCA or any Superior Court. Delivery or to produce stay order by 14.03.2022."



C.R.P.(PD) No.720 of 2022

3.The Execution Court has passed the above order on 21.02.2022, directing the revision petitioner herein, should obtain an order of stay from the Rent Control Appellate Authority, on or before 03.03.2022 and if it is not so obtained, the respondent-landlord can pay the process for delivery. The learned counsel submitted that the revision petitioner is caught in a difficult situation. Whereas, the notice of service of stay application in RCA.No.206 of 2020 is posted for return of notice on 03.03.2022, but the Execution Court has posted the matter for pay the process of delivery after 03.03.2022. He submitted that atleast delivery till 25.03.2022, the petitioner needs a stay, otherwise, his interest in RCA would be defeated.

4. It is noted that in case the respondent/landlord atleast paid process for delivery, and if delivery has been taken, necessarily this revision becomes infructuous. If on the contrary, delivery is not effected, there shall be an order of stay till 25.03.2022 to enable the respondent to move for an order of stay before Rent Controller/Appellate Authority before RCA NO.206 of 2020.

5.It is true, this Court did not issue notice to the respondent but no damage



C.R.P.(PD) No.720 of 2022

is done in respect of the rights of the respondent in this proceedings except that the delivery is deferred till 25.03.2022. After all procedural fairness must be given adequate space for a fair play.

6. In the result, this revision is allowed and the order dated 21.02.2022 in E.P.No.1059 of 2021 passed by the learned XII Small Causes Judge, is set aside. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2022

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Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

Note : Issue order copy on 07.03.2022



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C.R.P.(PD) No.720 of 2022

N.SESHASAYEE.J.,

dn/ds

C.R.P.(PD) No.720 of 2022

07.03.2022