



WEB COPY



C.R.P.(NPD)No.2352 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(NPD)No.2352 of 2022

and

C.M.P.No.12125 of 2022

S.Vijaya

... Petitioner

..Vs.

G.J.Mahendran

... Respondent

Prayer :- Civil Revision Petition filed under Section 115 of Code of Civil Procedure, 1908, to set aside the order of return passed in E.A.S.R.No.2775 of 2022 in E.P.No.86 of 2021 in O.S.No.39 of 2017 dated 08.06.2022 by the learned Subordinate Judge, Tambaram and direct the learned Subordinate Judge, Tambaram to number the same to decide on merits and in accordance with law.

For Petitioner	: Ms.S.Valarmathi for Mr.V.Maharajan
For Respondent	: Mr. Gowthaman

ORDER

This Civil Revision Petition has been preferred challenging the order dated 08.06.2022 passed in E.A.S.R.No.2775 of 2022 in E.P.No.86 of 2021 in O.S.No.39 of 2017 by the learned Subordinate Judge,



C.R.P.(NPD)No.2352 of 2022

WEB COPY

2. The revision petitioner is the defendant in the suit filed by the respondent/plaintiff for recovery of possession. The said suit was decreed. Subsequently, the plaintiff/decreed holder filed an execution petition in E.P.No.86 of 2021. During the pendency of the said petition E.A.S.R.No.2775 of 2022 has been filed to stay the execution of the decree for a period of one month. The said petition was returned on 08.6.2022 with the following written endorsement:

" How this petition is maintainable to entertain. Hence Returned. Time one month."

3. Aggrieved over the same, the petitioner/defendant has preferred the present revision petition.

4. Before advertng into the merits of the endorsement it is to be noted that the petition seeking stay has been filed on 22.04.2022 and the prayer sought for is for a limited period of one month and the same has



C.R.P.(NPD)No.2352 of 2022

got expired already. In such a context, the petition itself would become infructuous.

5. The learned counsel for the revision petitioner submitted that the petitioner/defendant has already filed an appeal challenging the decree. Hence, it is up to the petitioner to get an order of stay in the Appellate Court itself, if the matter deserves.

6. In the result, this Civil Revision Petition is dismissed and the order dated 08.06.2022 passed in E.A.S.R.No.2775 of 2022 in E.P.No.86 of 2021 in O.S.No.39 of 2017 by the learned Subordinate Judge, Tambaram is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

28.07.2022

Index:Yes No
Speaking Order:Yes/No
ms

R.N.MANJULA, J.

Page No.3/4



WEB COPY



C.R.P.(NPD)No.2352 of 2022

ms

To

The Subordinate Judge,
Tambaram.

**C.R.P.(NPD)No.2352 of 2022
and
C.M.P.No.12125 of 2022**

28.07.2022

Page No.4/4