



WEB COPY



C.R.P. (NPD) .No.3038 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(NPD).No.3038 of 2021

and

C.M.P.No.21488 of 2021

1.Gunasekaran

2.Yasodha

.. Petitioners

Vs.

Jessi

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the said order passed in REP.No.117 of 2020 in RCOP.No.27 of 2017 on 04.12.2021 by allowing this Civil Revision Petition.

For Petitioner : Mr.K.Gandhi Kumar

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ORDER

WEB COPY The petitioner challenges the order for delivery passed in REP.No.117 of 2020.

2. The said execution petition was filed by the respondent seeking delivery of possession. Pursuant to the order of eviction passed in RCOP.No.27 of 2017. The order for delivery was passed on 04.12.2021.

3. Mr.K.Gandhi Kumar, learned counsel appearing for the petitioners would vehemently contend that appeal filed by the tenant is pending at the stage of condonation of delay before the appellate authority and if the possession of the petitioners is disturbed, pending appeal, the appeal would become infructuous.

4. I am unable to countenance the submission of the counsel for the petitioners. An attempted appeal is not a ground for deferring execution. Admittedly, there is a delay of 9 days in filing the appeal. It is already pending at that stage. I therefore do not see any reason to interfere with the

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order of the executing Court rejecting the request of the petitioner for adjournment on the ground that the appeal is pending.

5. Hence, this revision is fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed. The appellate authority is directed to dispose of I.A.No.1 of 2021 in un-numbered RCA within a period of one month from today.

06.01.2022

dsa

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Speaking order

To

1. The Subordinate Judge, Salem.
2. The II Additional District Munsif, Salem.

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R.SUBRAMANIAN, J.

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