



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 21.12.2022**

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**C.R.P.No.4226 of 2022**  
**and**  
**C.M.P.No.22144 of 2022**

Nandhakumar

... Petitioner

Vs.

Mothichand

... Respondent

**Prayer:** Civil Revision Petition filed under article 227 of the Constitution of India, to set aside the fair and final order passed by the Principal District Munsif Court, Mayiladuthurai, made in E.A.No.2 of 2022 in E.P.No.44 of 2021 in R.L.T.O.P.No.1 of 2020, dated 14.06.2022.

For Petitioner

: Mr.B.Jawahar

**ORDER**

The Civil Revision Petition has been filed to set aside the fair and final order in E.A.No.2 of 2022 in E.P.No.44 of 2021 in R.L.T.O.P.No.1 of 2020 dated 14.06.2022 passed by the Principal District Munsif Court, Mayiladuthurai.



2. The revision petitioner is the tenant. The respondent / landlord instituted a proceeding for eviction of the revision petitioner and the Rent Court passed a decree in favour of the respondent / landlord. The Rent Court in RLTOP proceedings, ordered to vacate and hand over the possession of the premises within a period of three months. Since, the revision petitioner failed to vacate the premises, the respondent / landlord filed execution petition in EP.No.44 of 2021.

3. The learned counsel for the petitioner made a submission that the petitioner filed an appeal before the First Appellate Court, which is pending. During the pendency of the appeal, the respondent / landlord initiated steps to vacate the revision petitioner and therefore, he filed an application for stay of the execution proceedings, till such time the appeal is decided by the First Appellate Court.

4. The Execution Court made a finding that the Rent Court initially passed an order in RLTOP proceedings directed the revision petitioner / tenant to vacate the premises and hand over vacant possession to the respondent / landlord within a period of three months. The revision petitioner



has failed to vacate and hand over the possession as per the order. Thereafter, the respondent / landlord filed an execution proceeding. Further, the revision petitioner filed an appeal before the Appellate Court. Thus, any stay, if at all, to be sought for, the petitioner has to get such an order only from the First Appellate Court and the Execution Court cannot grant any stay of the proceedings, till such time the appeal is disposed of by the I Appellate Court.

5. This Court is of the considered opinion that, when an appeal is pending before the I Appellate Court, the tenant is at liberty to file an application for stay in the appeal and he cannot seek any interim stay of the execution proceedings merely on the ground that an appeal is pending before the I Appellate Court. In the event of granting stay, it will become virtually granting an interim stay in the appeal proceedings and therefore, the Execution Court rejected the application filed by the revision petitioner.

6. However, the fact remains that the revision petitioner preferred an appeal, which is pending and the Rent Court has already directed the tenant to vacate the premises and hand over possession within a period of three



months. At this stage, the Execution Court has rightly rejected the application for grant of stay.

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7. Thus, this Court do not find any infirmity in respect of the order passed in E.A.No.2 of 2022 in E.P.No.44 of 2021 in E.P.No.44 of 2021 in RLTOP No.1 of 2020. Accordingly, the order dated 14.06.2022 passed in E.A.No.2 of 2022 in E.P.No.44 of 2021 in RLTOP No.1 of 2020 stands confirmed.

8. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

**21.12.2022**

skr/jeni  
Index : Yes  
Speaking order



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To  
The Judge,  
Principal District Munsif Court,  
Mayiladuthurai.



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**S.M.SUBRAMANIAM, J.**

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