



C.R.P PD(MD) No.2012 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 11.10.2022

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

C.R.P(MD)No.2012 of 2022 and  
CMP(MD) No.9230 of 2022

N.Pushpam

... Petitioner

Vs

Malli Mandapam Trust,  
Through its Trustee,  
Door No.47D,  
Bharathidasan Salai,  
(Travellers Bungalow Road),  
Madurai -10.

... Respondent

**PRAYER:** Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 06.09.2022 passed in E.A.No.88 of 2022 in E.P.No.11 of 2020 in RCOP No.79 of 2001, on the file of the Additional District Munsif Court, Madurai Town.

For Petitioner

: Mr.K.Muthurakkan



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## **ORDER**

This petition has been filed as against the order passed by the learned Additional District Munsif, Madurai in E.A.No.88 of 2022 in E.P.No.11 of 2020 in RCOP No.79 of 2001, dated 06.09.2022.

2.The respondent Trust has filed an application in R.C.O.P No.79 of 2001 before the Additional Rent Controller/Additional District Munsif Court, Madurai Town as against this revision petitioner, under Section 10(2) (I) and 14(1) (b) of Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960, for the relief of eviction. The said application was allowed by the learned Additional Rent Controller on 19.12.2018. Challenging the same, the petitioner herein has filed appeals in R.C.A.Nos.35 and 36 of 2019 before the Principal Subordinate Court, Madurai, which were dismissed on 12.11.2019, for non-payment of batta. The respondent herein has filed E.P.No.11 of 2020 before the Additional District Munsif Court, Madurai in the year 2020, which was allowed on



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07.03.2022, and eviction was also ordered. Thereafter the petitioner filed applications in I.A.No.80 & 81 of 2022 in R.C.A.Nos.35 and 36 of 2019, to restore the appeals by condoning the delay of 868 days and these applications are still pending. At this juncture, the petitioner herein has filed an application in E.A.No.88 of 2022, under Section 151 of Civil Procedure Code, to stay the execution proceedings in E.P.No.11 of 2020. The trial Court, considering the conduct of the petitioner, dismissed the said application. Aggrieved over the same, the present Civil Revision Petition is filed.

3.The learned counsel appearing for the petitioner submits that the learned Rent Controller ought not to have proceeded with the execution proceedings in E.P.No.11 of 2020, till the appeals attained finality. The Execution Court failed to note that the appeals preferred by the petitioner were dismissed for non-payment of batta and the applications filed to condone the delay in restoring the appeals are still



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pending before the first Appellate Court. Hence, the order of the trial Court in dismissing the petition in E.A.No.88 of 2022, to stay all further proceedings in E.P.No.11 of 2020 has to be set aside.

4.Heard the learned counsel appearing for the petitioner and also perused the materials placed on record. Since no adverse order is going to be passed, notice to the respondent is dispensed with.

5.The respondent Trust has initiated Rent Control proceedings in R.C.O.P No.79 of 2001 as against the petitioner in the year 2001 and the same was disposed of in the year 2018. Thereafter, the petitioner preferred appeals in R.C.A.Nos.35 and 36 of 2019 and he has not prosecuted the appeals properly and allowed the same to be dismissed on 12.11.2019, for non-payment of batta. After the dismissal of the appeals, the respondent/landlord initiated execution proceedings in E.P.No.11 of 2020 and the same was allowed on 07.03.2022. Till such



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time, the petitioner has not taken any steps to restore the appeals even after receipt of notice in the execution proceedings. Delivery was also ordered in the execution proceedings in the month of March 2022. Thereafter, the petitioner filed I.A.Nos.80 & 81 of 2022 to restore the appeals with a delay of 868 days and these applications are still pending before the Rent Control Appellate Authority. While that being so, the petitioner filed an application in E.A.No.88 of 2022 to stay all further proceedings in E.P.No.11 of 2020. The trial Court has held that as per Order XXI Rule 26 of Civil Procedure Code, the execution Court shall stay the execution of the decree for a reasonable time, upon showing sufficient cause, to enable the Judgment debtor to apply to the Court, by which the decree was passed, or to any Court having appellate jurisdiction. But, in the present case on hand, the petitioner has not shown any sufficient reasons for grant of stay and the trial Court has rightly dismissed the application.



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6.In view of the above, this Court finds no merit in this petition. Accordingly, this Civil Revision Petition is dismissed in the admission stage itself. No costs. Consequently, connected Miscellaneous Petition is closed.

**11.10.2022**

Index : Yes / No.

Internet : Yes / No.

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To

The Additional District Munsif Court, Madurai Town.



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**B.PUGALENDHI, J.**

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