



C.R.P(MD)No.1021 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.04.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1021 of 2023

and

C.M.P(MD)No.4777 of 2023

R.Senthil

...Respondent/Petitioner/
Petitioner/Tenant

Vs.

Bhuvaneshwari @ Usha

...Petitioner/Respondent/
Respondent/Landlord

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order in E.A.No. 51 of 2023 in E.P.No.142 of 2022 in R.C.O.P.No.175 of 2013, dated 04.03.2023 on the file of the Additional District Munsif Court, Madurai Town.

For Petitioner : Mr.N.Balakrishnan

ORDER

The present civil revision petition has been filed against the fair and decreetal order in E.A.No.51 of 2023 in E.P.No.142 of 2022 in R.C.O.P.No.175 of 2013, dated 04.03.2023 on the file of the Additional District Munsif Court, Madurai Town.



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2. The petitioner is the unsuccessful respondent in R.C.O.P.No.175 of 2013 on the file of the I Additional District Munsif, Madurai filed by the respondent herein. The respondent has secured favourable judgment and decree from the aforesaid Court on 10.08.2021. Aggrieved by the same, the petitioner has preferred an appeal before the Sub Court, Madurai in R.C.A.No.47 of 2021. The appeal appears to have filed on 07.10.2021.

3. In the said appeal, the petitioner filed I.A.No.174 of 2021 to stay the operation of the judgment and decree of the Rent Controller in R.C.O.P.No.175 of 2013. Meanwhile, the respondent has filed E.P.No.142 of 2022 on 14.06.2022 to execute the judgment and decree passed in R.C.O.P.No.175 of 2023. In the execution petition, it appears that the respondent has stated no appeal has been preferred by the petitioner.

4. The learned counsel for the petitioner submits that in the appeal proceedings, the respondent is taking time and therefore, the Court is unable to pass any orders under Order 41 Rule 5 of C.P.C. Under these



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circumstances, the petitioner has filed E.A.No.51 of 2023 under Order 21 Rule 26 (1) of C.P.C.

5. In my view, the impugned order cannot be assailed as admittedly the petitioner has filed an appeal before the appellate Court in R.C.A.No.47 of 2021. Therefore, no interference is warranted as far as the impugned order is concerned.

6. Therefore, the present Civil Revision Petition stands disposed by directing the Principal Subordinate Judge, Madurai to dispose of the I.A.No.174 of 2021 in R.C.A.No.47 of 2021 by 30.06.2023. Pending disposal of I.A.No.174 of 2021 in R.C.A.No.47 of 2021, all further proceedings in E.P.No.142 of 2022 shall be kept in abeyance. No costs. Consequently, connected miscellaneous petition is closed.

20.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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- 1.The Additional District Munsif Court,
Madurai Town.
- 2.The Principal Subordinate Judge,
Madurai.
- 3.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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