



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Thursday, the Twenty Third day of March Two Thousand and Twenty
Three

PRESENT

The Hon`ble Mr.Justice C.SARAVANAN

CMP(MD). No.10607 of 2022

in

CRP(MD).No.1738 of 2021

Jafer Sadiq

... Petitioner/Respondent

Vs

Dhanasamy

... Respondent/Petitioner

Prayer :-

Civil Miscellaneous Petition filed under order 41 r/w.21 of C.P.C to recall the order made in C.R.P.(MD).No.1738 of 2021 dated 22-02-2022.

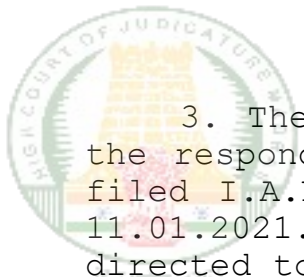
Prayer in CRP(MD).1738 of 2021

Civil Revision Petition is filed under Article 227 of the Constitution of India to direct the District Munsif Court, Pudukkottai to accept the Lodgment Schedule Memo, dated 12.02.2021 in I.A.No.47 of 2019 in RCOP.No.8 of 2017, dated 11.01.2021.

ORDER:- This Civil Miscellaneous Petition is coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. M.Mahaboob Athiff, Advocate for the Petitioner, Mr.R.Paranjothi, Advocate for the Respondent, this Court made the following order:

This petition has been filed to re-call the order passed by this Court on 24.02.2022. The petitioner herein is the respondent in the civil revision petition.

2. The civil revision petition was filed by the respondent herein under Article 227 of the Constitution of India to direct the Rent Control Authority cum District Munsif Court, Pudukkottai to expedite the Lodgment Schedule Memo, dated 12.02.2021 in I.A.No.47 of 2019 in R.C.O.P.No.8 of 2017, dated 11.01.2021.



3. The said RCOP was filed by the petitioner herein against the respondent herein. In the said RCOP, the petitioner herein had filed I.A.No.47 of 2019. I.A.No.47 of 2019 came to be allowed on 11.01.2021. By the aforesaid order, the respondent herein was directed to deposit the arrears of rent on or before 12.02.2021. The attempt of the respondent appears to have turned futile as the counsel who appeared for the petitioner before the Rent Controller Court refused to receive the rent on the last date (ie) 12.02.2021. The respondent filed a memo with a request to deposit a rent along with the lodgment schedule, dated 12.02.2021.

4. However, the trial Court proceeded to pass an order, dated 15.02.2021 by noting that the respondent had not complied with the conditional order in I.A.No.47 of 2019, dated 11.01.2021. Therefore, directed the respondent to vacate and hand over the possession of the property within two months. On the same day, the Rent Control Court had also passed a decree of the aforesaid memo.

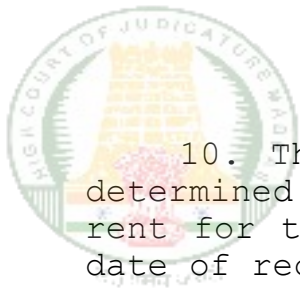
5. The learned counsel for the petitioner submits that the Court committed an error inasmuch as the E.P. proceedings initiated by the petitioner has been dismissed as if RCOP is now pending on the file of the aforesaid Court.

6. By an order, dated 24.02.2022, this Court directed the Court to dispose of R.C.O.P.No.8 of 2017 within a period of 4 months from the date of receipt of copy of the order.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.

8. The facts are not in dispute. The respondent was directed to pay the arrears of rent by an order, dated 11.01.2021 in I.A.No.47 of 2019 on or before 12.02.2021. The attempt of the respondent to pay the rent and the petitioner's counsel, who appear before the lower Court was returned as it is evident from the reading of the endorsement made in the memo. Thus, order passed on 11.01.2021 could not be complied with. Therefore, the Rent Control Court which was seized the matter ought not to have passed the order on 12.02.2021 by ordering eviction of the respondent, as the petitioner declined to accept payment in terms of the memo filed by the respondent to pay a sum of Rs.1,01,400/- pursuant to an order, dated 11.01.2021.

9. In my view, no interference is called for with the order, dated 24.11.2021 of this Court. The amount that was directed to be paid by the order of the Rent Control Court could not be complied on account of the non-cooperation of the petitioner and his counsel. In my view, therefore, no interference is required. Therefore, present application is rejected and accordingly dismissed.



10. The respondent is however directed to pay rent which was determined by the Rent Control Court on 11.01.2021 and arrears of rent for the subsequent period within a period of 30 days from the date of receipt of copy of this order.

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11. The rights of the petitioner to pursue in E.P. shall stand preserved at appropriate stage, if the respondent fails to pay the arrears of rent. In case, the amount is deposited within time stipulated above, the Execution Petition (E.P.) shall be closed.

12. The Rent Control Court shall dispose of the R.C.O.P.No.8 of 2017 within a period of four months from the date of receipt of copy of this order.

Sd/-

Assistant Registrar(CS I)

// True Copy //

/04/2023

Sub Assistant Registrar(CS)

TO

The Rent Control Authority cum District Munsif, Pudukkottai

ORDER DATED : 23/03/2023

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ORDER

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CMP(MD). No.10607 of 2022
in

CRP(MD).No.1738 of 2021

Giving direction and etc.
as stated within.

MK/26.04.2023 3P 2C