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C.R.P. No. 3076 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 05.09.2024

CORAM

**THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN**

**C.R.P. No. 3076 of 2024**

M/s. Aradhana Polymers  
Rep by its Managing Director  
Pradeesh  
2nd Cross Street, Ragavan Colony  
Ashok Nagar, Chennai - 600083.

... Petitioner / Defendant

Vs.

J.Karthick  
S/o. S.Jayaprakasam

... Respondent / Plaintiff

**PRAYER:** Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the learned District Munsif Judge, Poonamalle to expedite the hearing of O.S. No. 361 of 2022 pending on the file of the learned District Munsif Judge, Poonamallee, Thiruvallur District.

For Petitioner : Mr. Thyagarajan  
assisted by Ms.G.Sangeetha

**ORDER**

This civil revision petition has been filed for direction to the learned District Munsif at Poonamallee to expedite the hearing of O.S. No. 361 of 2022.



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2. When the matter came up for admission, I called for a report from the learned Principal District Munsif at Poonamallee on 06.08.2024. The learned Principal District Munsif at Poonamallee has sent a report stating that P.W.1 is yet to mark his side of documents and therefore not less than four months would be required for disposal of the case. At this stage, Mr. Thyagarajan will invite my attention to a memo that has been filed by the defendant in the said suit. The memo reads as follows:-

IN THE COURT OF THE DISTRICT MUNSIF AT POONAMALLEE

O.S.No. 361 of 2022

J.Karthick,  
S/o S.Jayaprakasam,  
Sole Proprietor,  
M/s Deena Visions,  
No.55, GK Industrial Estate,  
Ganesh Nagar, 3<sup>rd</sup> Street, Alapakkam,  
Chennai-116. :: Plaintiff

Vs

M/s Aradhana Polymers,  
Rep by its Managing Partner,  
Mr.Pradeesh  
2<sup>nd</sup> Cross Street, Ragavan Colony,  
Ashok Nagar, Chennai-83. :: Defendant

MEMO FILED ON BEHALF OF THE DEFENDANT  
\*\*\*

The Defendant above named begs to state as follows:

1) Pursuant to the filing of the above suit, the Defendant had filed RLTOP No. 16 of 2023 before the Rent Control Authority, Poonamallee and obtained an order of eviction on 12/12/2023, which is still in force, yet to be executed through due process of law.

2) In this juncture the above suit for bare injunction restraining this Defendant from evicting the Plaintiff without due process of law become infructuous and unavailable to the Plaintiff herein.

Hence this Hon'ble Court may be pleased to record this Memo and dismiss the suit as infructuous and unavailable to the Plaintiff and render justice.

Dated at Chennai on this the 8<sup>th</sup> day of August 2024.

Defendant

Counsel for Defendant



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3. He would add that this memo was rejected by the learned District Munsif on the ground that the suit is not infructuous, since the petitioner is yet to take possession of the property. The e-Court proceedings read as follows:-

21/03/24, 4:10 PM Case Status : Search by Case Number | Tiruvallur District Court, India

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Case Status : Search by Case Number

1. Case Number

Principal District Munsif Court, Poonamallee

In The Court Of: Principal District Munsif, Poonamallee

CNR Number : TNTR/0007782/22

Case Number : OS/000311/2022

Date : 12-03-2024

J. Karthi Vignesh Appellans polayars.

Defendant

Address

Next Purpose

Next Hearing Date

Exclusional 28-06-2024

Revised Case No: 05/2023. The defendant has filed a memo for defendant and they filed memo by stating that since defendant filed RTI/00162/2023, this suit becomes infructuous. Overthrought, the defendant filed exclusional petition. If I am he has not taken possession of sub property, then this suit is not infructuous and thus the memo is rejected for next marking of documents call off.

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4. I went through the plaint and found that the suit itself is for permanent injunction restraining the defendants from evicting the plaintiff except otherwise in due process of law. Mr. Thyagarajan would submit that the defendant never intended to take possession forcibly. On the contrary, he has presented a petition for eviction in R.L.T.O.P. No. 16 of 2023 before the learned Principal District Munsif cum Rent Court at Poonamallee. He adds that the said R.L.T.O.P. was allowed on 12.12.2023. He states that the tenant has not preferred any appeal against the said order.

5. When the relief in the suit itself is not to evict the tenant except otherwise in accordance with law and when the landlord has initiated proceedings for eviction, then it means that the landlord has submitted to the jurisdiction of the courts and has not taken law into his own hands for the purpose of eviction. When such plea of the position, there is nothing left for adjudication in the suit.

6. Mr. Thyagarajan submits that his client will take possession of the property only after obtaining appropriate orders from the Execution Court. The said statement is placed on record.

7. In the light of the clear and specific statements of Mr. Thyagarajan



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that R.L.T.O.P. proceedings have been initiated by the landlord and an eviction order has been passed on 12.12.2023, I fail to understand what else remains for adjudication in O.S. No. 361 of 2022. The suit on the face of it infructuous. Consequently, following the judgment of the Supreme Court in *Shipping Corporation of India Ltd. Vs. Machado Brothers and others reported in AIR 2004 SC 2093*, the suit in O.S. No. 361 of 2022 has become infructuous. The learned Trial Judge shall dispose of the suit recording this order.

8. The statement of Mr. Thyagarajan that possession will be taken only through process of the Court is reiterated. This will protect the interest of the tenant.

9. With the above orders, the civil revision petition stands disposed of.

No costs.

05.09.2024

Index : Yes/No  
Speaking order : Yes/No  
NCC : Yes/No  
pal

To  
The District Munsif Judge, Poonamalle.



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**V.LAKSHMINARAYANAN, J.,**

pal

**C.R.P. No. 3076 of 2024**

**05.09.2024**