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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.R.P(MD)No.2356 of 2024
and
C.M.P.(MD).No.13369 of 2024

Revathi

...Revision Petitioner

Vs.

Nawaz Ahamed

... Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the Fair and Decreetal order passed in E.A.No.1 of 2024 in E.P.No.100 of 2023 in R.C.O.P. No.27 of 2015 on the file of the I Additional District Munsif Court, Tiruchirappalli, dated 13.06.2024.

For Petitioner : Mr.M.Ashok Kumar

For Respondent : Mr.K.Prabhakar

ORDER

The tenant has filed this Civil Revision Petition challenging the order passed in E.A.No.1 of 2024 in E.P.No.100 of 2023 in R.C.O.P. No.27 of 2015 on the file of the I Additional District Munsif Court, Tiruchirappalli.



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2. The revision petitioner is the tenant and the landlord is the respondent herein. For sake of convenience the parties are to be referred to as tenant and landlord.

3. The landlord has filed R.C.O.P. NO.27 of 2015 to evict the tenant on the ground of wilful default and the same was allowed. Against which, the tenant has preferred an appeal in R.C.A.No.19 of 2023. Pending appeal, the landlord has filed E.P. No.100 of 2023 in R.C.O.P. No.27 of 2015 to execute the decree. Hence, the tenant has filed E.A. No.1 of 2024 in E.P. No. 100 of 2023 under Section 151 of Civil Procedure Code, for filing additional counter and the same was dismissed. Aggrieved over the same, the tenant had filed the present Civil Revision Petition.

4. The contention of the tenant is that when the appeal is pending the execution court cannot proceed with the execution petition. But the contention of the landlord is that there is no stay in the appeal and hence there is no impediment in proceeding with the execution of the decree. This Court is of the considered opinion when the appeal is pending, the Execution Court cannot proceed with the execution petition. If the appeal is allowed in favour of



the tenant, then the tenant would be prejudice with the eviction. If the appeal is heard within stipulated time the same would meet the ends of justice.

5. Accordingly, the Appellate Court is directed to complete the proceedings in R.C.A. No.19 of 2023, within a period of two months from the date of receipt of a copy of the order. In the meanwhile, the Execution Court is directed to keep the execution petition in abeyance.

6. With the above directions, this Civil Revision Petition is disposed of. No Costs. Consequently, the connected miscellaneous petition is closed.

16.10.2024

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

1. The I Additional District Munsif Court,
Tiruchirappalli.
2. The Section Officer,
Vernacular Records Section,
Madurai Bench of Madras High Court, Madurai.



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S.SRIMATHY, J.

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Order made in
C.R.P(MD)No.2356 of 2024

16.10.2024