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C.R.P.No.(NPD) No.3295 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.01.2025

Coram

The Hon'ble Mr.Justice N.Sathish Kumar

C.R.P.(NPD) No.3295 of 2024

and

C.M.P.No.17602 of 2024

Mr.Babu

....Petitioner

Vs.

1. P.Rukmani
2. Amirdalingam
3. Pandaribai
4. Gomathi
5. Shipra
6. Minor Arnab
Minor rep. By next friend/Guardian Mother Shipra
Babu (Died)
- 7.LKMB Vasu
8. District Collector,
Vellore District
9. The District Manager
IMFS Depot, TASMAL Ltd.,
39/4, Filterbet Road, Vellore.
- 10.B.Gomathi
- 11.B.Sudha
- 12.B.Devi
- 13.B.Manjula

...Respondents



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Civil Revision Petition filed under Section 115 of Civil Procedure Code as against the order passed in E.P.No.160 of 2019, in R.C.O.P.No.37 of 2012, dated 12.07.2024, on the file of the Additional District Munsif, Vellore.

For Revision Petitioner : Mr.I.Abrav Mohammed
Abdullah
for M/s.Adithya Varadarajan
For R-1, 5, 6, 7, 13 : Service awaited
For Respondents 2-4 : Mr.P.Elayaraj Kumar
for M/s. Ramalingam Associates

For Respondents-8 & 9 : Mr.P.Gurunathan
Additional Government Pleader

ORDER

This Civil Revision Petition is filed as against the order passed by the learned Additional District Munsif, Vellore (hereinafter, referred to as 'the Executing Court') in the Execution Petition No.160 of 2019, dated 12.07.2024.

2. The brief facts of the case, which led to the filing of this Revision Petition are as follows:-



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i) The respondents 1 to 4 herein and one Mohan, filed a Petition in R.C.O.P.No.37 of 2012, seeking for eviction and delivery of vacant possession of the property. Pending disposal of the Rent Control Original Petition, the respondents also filed an Interlocutory Application in I.A.No.17 of 2014 seeking for a direction against the first respondent to pay the arrears of rent of Rs.3,39,000/-. The learned Rent Controller vide a fair and decreetal order dated 14.07.2015, allowed, the Interlocutory Application and directed the revision petitioner/tenant to pay the arrears of rent of Rs.3,39,000/- and in case of non-compliance, the tenant was directed to put the first respondent/landlord in possession of the property. Subsequently, R.C.O.P. filed for eviction of the tenant was taken up for hearing and since the revision petitioner/tenant failed to comply with the conditional order by not paying the arrears of rent, learned Rent Controller disposed of the Eviction Petition by order dated 29.07.2015, whereby, the revision petitioner/tenant was directed to put the landlord in possession of the property. Challenging the order passed by the learned Rent Controller, the revision petitioner preferred an Appeal in R.C.A.No.19 of 2015, and



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pending disposal of the Appeal, the revision petitioner also sought for stay of the decree passed in R.C.O.P.No.37 of 2012. In the interregnum, the respondents 1 to 4 seeking for execution of the decree passed in R.C.O.P.No.37 of 2015, filed a Petition in E.P.No.160 of 2019 and the Executing Court vide order dated 12.07.2024, allowed the Execution Petition. Challenging the same, the present Revision Petition is filed.

3. The learned counsel appearing for the revision petitioner would submit that as against the order of eviction passed by the learned Rent Controller vide order dated 29.07.2015 in R.C.O.P.No.37 of 2012, the revision petitioner has filed an Appeal and though the arrears of rent, as ordered to be paid to the respondents has not been paid by the revision petitioner, the revision petitioner has deposited the said amount to the credit of the Appeal filed by him in R.C.A.No.19 of 2015 and during the pendency of the Appeal, the revision petitioner also sought for a stay. But, the Rent Control Appellate Authority has refused to grant stay on the ground that since the Appeal is ripe for argument, there is no necessity for stay. However, the respondents, without awaiting for a decision in the Appeal in

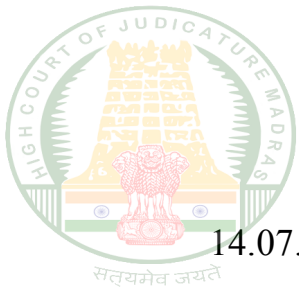


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order to cause further hindrance to the revision petitioner, moved an Execution Petition in the interregnum period, and the Executing Court without appreciating all the aforesaid aspects in a proper perspective, erroneously, allowed the Execution Petition.

3.1 Further, it is submitted by the learned counsel for the revision petitioner that there is no landlord and tenant relationship existing between the revision petitioner and the respondents and infact, the revision petitioner claiming equal share over the property also filed a Suit for partition in O.S.No.225 of 2015, therefore, he prayed for allowing the Revision Petition. Furthermore, it is submitted that the revision petitioner to show their bona fide, is also ready and willing to pay the entire arrears and would also continue to pay the amount till the disposal of the Appeal/Suit, whichever is earlier, and hence, prayed for allowing the Revision Petition.

4. The learned counsel for the respondents/landlords would submit that though the order passed by the learned Rent Controller directing the revision petitioner/tenant to pay the arrears of rent was passed as early as on



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14.07.2015, till date, the revision petitioner/landlord has not received any single pie. As on date, the arrears of rent would come around to a sum of Rs.7,68,000/-. Though the revision petitioner claims to have filed Appeal as against the order passed in R.C.O.P.No.17 of 2012, since no documents was filed to prove the same and in the absence of any order staying the operation of the decree passed in R.C.O.P.No.17 of 2012, the Executing Court rightly allowed the Execution Petition and the same cannot be found fault with, hence, he prays for dismissing the Revision Petition.

5. Heard the learned counsel for the parties concerned and perused the materials placed on record.

6 Admittedly, there is no dispute on the aspect that as against the order passed by the learned Rent Controller in R.C.O.P.No.17 of 2012, the revision petitioner has filed an Appeal in R.C.A.No.19 of 2015 and also deposited the arrears of rent of Rs.3,39,000/- to the credit of the Appeal and the said Appeal is pending. However, what has to be seen here is that though during the pendency of the Appeal, the revision petitioner has



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sought for stay by filing I.A.No.102 of 2015 the learned Rent Control

Appellate Authority has refused to grant stay owing to the reason that the Appeal is ripe for argument.

6.1 Thus, it is clear that the reason for refusal to grant stay is due to the fact that the Appellate Authority might have intended to dispose of the main Appeal itself, as the same is ripe for argument, hence, the failure on the part of the revision petitioner to obtain stay of the rent control original proceedings cannot be put against the revision petitioner, inasmuch as, such refusal is purely owing to the fact that the Appeal is ripe for arguments, therefore, no useful purpose would be served by granting stay. Further, it has to be seen that the revision petitioner also filed a suit for partition in O.S.No.225 of 2015 on 01.07.2015 claiming equal right over the property on the ground that there is no landlord and tenant relationship that ever existed between the the revision petitioner and the respondent.

6.2 Thus, this Court taking into consideration of all the aforesaid facts is inclined to grant one more opportunity to the revision petitioner to



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agitate his rights on merits either in the Appeal or Suit, however, the same

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is subject to the condition that the revision petitioner deposits arrears of rent

other than the amount that was already deposited to the credit of the Appeal

within a period of four weeks from the date of receipt of a copy of this

order. On such deposit being made by the revision petitioner, the

respondents 1 to 5 are permitted to withdraw the said amount from the First

Appellate Court, viz., Principal Sub Court, Vellore. However, considering

the fact that the suit in O.S.No.225 of 2015, has been transferred to the Sub

Court, Vellore, the learned Sub Judge, Vellore is directed to dispose of the

Appeal within a period of 1 month from the date of deposit of the amount.

It is made clear that in the event, the amount is not deposited, within the

time limit stipulated by this Court, the order of delivery of possession

passed by the learned Rent Controller shall be executed without reference to

any Appeal. Till the disposal of the Appeal, the order passed by the

Executing Court for delivery is stayed.



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7. With the above observations and directions, this Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Note : Registry to mark a copy of this order to
Sub Judge, Vellore.

To
The Additional District Munsif, Vellore.



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N.Sathish Kumar,J.,

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