

**IN THE COURT OF THE III ADDITIONAL DISTRICT AND
SESSIONS JUDGE CUM RENT TRIBUNAL
TIRUVALLUR AT POONAMALLEE**

Present: **Thiru. C.VIJAYAKUMAR, B.A., B.L.,**
III Additional District and Sessions Judge

Monday, the 23rd day of February 2026

**I.A.No.1/2026 in
R.L.T.A.No.14/2025 against
in R.L.T.O.P.No.6/2025
(on the file of the Rent Court at Ambattur)**

T.K. Kulasekaran, S/o. Thangamuthu,
Flat No.D, Rear Portion of first floor,
Kings Court, No.59, Spartan Avenue,
Thiruvalluvar Nagar, Mogappair East,
Chennai – 600 037.

...Petitioner/Appellant/Respondent.

-Vs-

A.G. Abdul Kareem, S/o. H.A.R. Abdul Gaffar,
No.I.1, Rukshan Apartments, No.7,
Sivasankaran Street, Kilpauk,
Chennai – 600 010.

...Respondent/Respondent/Petitioner.

This petition came up before this court for final hearing on 18.02.2026 in the presence of M/s. G. Prakash, N. Kannan learned counsel for the Petitioner/Appellant/Respondent and M/s. I. Surya, Sarulatha learned counsel for the Respondent/Respondent/Petitioner, and upon hearing the both side and

on perusal of oral and documentary evidence, written arguments, having stood over for consideration till this day, this court passed the following:

ORDER

This Petition filed under Section 38(4) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Rules, 2017, seeking interim stay in all the proceedings in E.P.No. 7 of 2026 on the file of the Rent Controller cum District Munsif Court, Ambattur.

2) The averments made in the affidavit filed by the petitioner in support of the petition are briefly as follows:-

The respondent filed an eviction petition (R.L.T.O.P. No. 6/2025) under Section 21(2)(a) of the TNRRRL Act, which was allowed on 14.10.2025. Although the petitioner was a "tenant holding over" with no rent arrears, the court ordered eviction based on the respondent's claim of personal occupation for his daughter. The petitioner subsequently appealed the order under Section 38(1); however, the respondent initiated execution proceedings (E.P. No. 7/2026) to obtain possession. To prevent irreparable loss and preserve the utility of the pending appeal, the petitioner prayed for a stay on the operation of the eviction order until the appeal's disposal, noting that no prejudice would be caused to the respondent. Hence, the Petition.

3) The averments made in the counter statement filed by the respondent in support of the petition are briefly as follows:-

The respondent, as the landlord of the Mogappair East premises, stated that the appellant had been a statutory tenant since 2014 at a monthly rent of Rs.18,000/-. He submitted that no written registered agreement existed between them upon the Act's commencement. Following the appellant's failure to comply with the Rent Act's provisions and refusal to enter a fresh agreement, the respondent issued a quit notice on 24.07.2024. Maintaining that the rent court's eviction order was legally sound and based on merit, the respondent argued that the current stay petition lacked substance and should be dismissed.

3) The point arising for consideration is whether the petition has to be allowed or not?

4) Point:

Heard both sides. Perused the documents.

5) Aggrieved by this dismissal, the Appellant has filed the current Memorandum of Appeal before the Rent Tribunal. As well as, the respondent initiated the execution proceedings in the E.P. No. 7/2026 on the file of the Rent Controller cum District Munsif Court, Ambattur to obtain possession. The appellant filed this petition, under section 38(4) of the Tamil Nadu Regulation

of Rights and Responsibilities of Landlords and Tenants Rules, 2017 to grant interim stay in all the above proceedings.

6) The respondent herein filed the main RLTOP petition before the Rent Court under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, on the grounds of non-registration of the tenancy agreement and subletting. The petitioner herein is the tenant who resists the claim of the respondent herein and seeks dismissal of the petition. The RLTOP petition was allowed, and the Rent Court ordered eviction.

7) Section 38(4) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 reads as follows:

(4) The Rent Tribunal may, in its discretion, pass such interlocutory order during the pendency of the appeal, as it may deem fit.

The section 37(h) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 reads as follows;

37. Powers of Rent Court and Rent Tribunal.—

(1) The Rent Central Act Court and the Rent Tribunal, for the purpose of discharging their functions under this Act, shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 for the purposes of,

(h) execution of its orders and decisions under this Act without reference to any civil court;

And also the Hon'ble Supreme Court in the case of M/S. Atma Ram Properties (P) Ltd vs M/S. Federal Motors Pvt. Ltd on 10 December, 2004 reported in AIR ONLINE 2004 SC 597 held that,

The order of eviction passed by Rent Controller is appealable to the Rent Control Tribunal under Section 38 of the Act. There is no specific provision in the Act conferring power on the Tribunal to grant stay on the execution of the order of eviction passed by the Controller, but sub-Section (3) of Section 38 confers the Tribunal with all the powers vested in a Court under the Code of Civil Procedure, 1908 while hearing an appeal. The provision empowers the Tribunal to pass an order of stay by reference to Rule 5 of Order 41 of the Code of Civil Procedure 1908 (hereinafter 'the Code', for short).

When this Court applied the section 38(4) and 37(h) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 along with the above observation, Order 41 Rule 5 of the CPC is squarely applicable to this petition. The Order 41, Rule 5 of C.P.C. is read as follows :

“ 5. Stay by Appellate Court.-

(1) An appeal shall not operate as a stay of proceedings under a decree or order appealed from except so far as the Appellate Court may order, nor shall execution of a decree be stayed by reason only of an appeal having been preferred from the decree; but the Appellate Court may for sufficient cause order stay of execution of such decree.

[Explanation-An order by the Appellate Court

for the stay of execution of the decree shall be effective from the date of the communication of such order to the Court of first instance, but an affidavit sworn by the Appellant, based on his personal knowledge, stating that an order for the stay of execution of the decree has been made by the Appellate Court shall, pending the receipt from the Appellate Court of the order for the stay of execution or any order to the contrary, be acted upon by the Court of first instance.

As per the above order, an appeal by itself does not operate as a stay of execution. But stay can be granted by the Court passing the decree or by the appellate Court, for "sufficient cause".

8) Applying the above legal principles to the facts of the present case, this Tribunal finds that the petitioner has preferred a statutory appeal against the eviction order passed by the Rent Court. The said appeal is pending adjudication on merits. If the execution proceedings are permitted to continue during the pendency of the appeal, the petitioner, who is in possession of the premises, may be dispossessed even before his appeal is heard on merits. Such dispossession would render the appeal infructuous and cause irreparable loss and injury to the petitioner.

9) The balance of convenience also lies in favour of the petitioner. The respondent, having obtained an order of eviction, is seeking to execute the same. However, the petitioner's right to prosecute his appeal and seek adjudication of his grievances on merits ought to be protected. If stay is not granted, the petitioner would suffer irreparable loss, whereas if stay is granted, the respondent can always seek expeditious disposal of the appeal and, in the event of success, proceed with execution thereafter. No serious prejudice would be caused to the respondent by grant of stay, except prolongation of the eviction process.

10) For the foregoing reasons, this Tribunal is of the considered view that the petitioner has made out a sufficient cause for grant of interim stay of the execution proceedings.

11) In the result, this petition is allowed and the execution of the decree passed by the Rent Court shall remain stayed during the pendency of this appeal.

Dictated to the steno-typist directly, typed by him in the computer, corrected and pronounced by me in the open court, this the 23rd day of February 2026.

**III Additional District and Sessions Judge,
Tiruvallur at Poonamallee.**

Exhibits and Witnesses on both sides :- Nil.

**III Additional District and Sessions Judge,
Tiruvallur at Poonamallee.**