

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) No.1219 of 2015

And

M.P.No.1 of 2015

1.Parvathi
2.Kamatchi
3.Lalitha

... Petitioners

Vs.

Velmurugan

... Respondent

Prayer:

Petition filed under Section 115 of the Civil Procedure Code praying to set aside the petition order dated 20.12.2013 made by the learned District Munsif Court at Madurantakam, Kancheepuram District in I.A.No.8 of 2013 in I.A.No.3 of 2012 in RCOP No.3 of 2010.

For Petitioners : Mr.K.Thilagaraj
For Respondent : Mr.K.Govi Ganesan

O R D E R

This revision is directed against the order passed by the learned District Munsif, Madurantakam, Kancheepuram District in I.A.No.8 of 2013 in I.A.No.3 of 2012 in RCOP No.3 of 2010.

2.The respondent/ landlord initiated eviction proceedings against the petitioners in RCOP No.3 of 2010 under Sections 10(2)(i), 10(2)(vii) and 10(3)(a)(i) of Tamil Nadu Building Lease and Rent Control Act. The case of the landlord is that the tenants have failed and neglected to pay rent from September, 2009 and he requires the building for their own use and occupation.

3.In the eviction petition, the tenants/ petitioners remained exparte and an exparte order was passed on 09.07.2010. Based on the eviction order, the landlord has laid an Execution Petition in E.P.No.62 of 2010. Thereupon the petitioners filed I.A.No.3 of 2012 to condone the delay of 315 days in filing the application to set aside the exparte decree. The learned District Munsif allowed the application on 13.06.2013 on payment of cost of Rs.1000/- to be paid on or before 24.06.2013. Subsequently, due to non-compliance of the condition, the application was dismissed on 25.06.2013. Thereafter, the petitioners filed I.A.No.8 of 2013 to condone the delay of 42 days in filing application to restore I.A.No.3 of 2012 and for extension of time. The learned District Munsif allowed the application on 16.12.2013 on payment of cost of Rs.500/- to be paid on or before 19.12.2013.

4.It is not in dispute that the petitioners have not complied with

the order dated 16.12.2013 and hence the application I.A.No.8 of 2013 was dismissed for non-prosecution. Challenging the order, the present civil revision petition is filed.

5.Mr.K.Thilagaraj, learned counsel for the petitioners submitted that the petitioners are ready to pay the cost and they are entitled to contest the eviction petition. It is further contended that the petitioners have already instituted a suit against the respondent and therefore, the eviction petition is not at all maintainable on law.

6.On the other hand, Mr.K.Govi Ganesan, learned counsel for the respondent submitted that the petitioners have been squatting on the property without paying rent from September, 2009 and the conduct of the petitioners would show that they have adopted dilatory tactics to prolong the litigation.

7.It is seen from the records that the landlord had instituted the case seeking eviction on the ground of willful default and for own use and occupation. The petitioners were aware of the exparte order passed in the eviction petition and later filed application to set aside the exparte order. The Rent Controller only to provide opportunity to the petitioners allowed the application on payment of cost of Rs.1000/.

K.KALYANASUNDARAM,J.

pri

8.Admittedly, the petitioners have not complied with the order nor filed any revision challenging the order. The subsequent application filed to extend time for payment of cost was also allowed to be dismissed for non-prosecution. The conduct of the petitioners reveals their malafide intention. The application lacks bonafide. Hence, I see force in the contention of the learned counsel for the respondent. There is no illegality or irregularity in the order impugned in this revision.

9.In the result, this civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

31.03.2015

pri

To

1.The District Munsif Court at Madurantakam, Kancheepuram District.

C.R.P.(NPD) No.1219 of 2015

And

M.P.No.1 of 2015