

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.07.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.1687 of 2016

and

C.M.P.No.9011 of 2016

Smt.Ruby Thomas,
Proprietor,
M/s Deepa Gas Agencies,
rep by Power Agent T.K. Dhanashekar
No.93, Gangadeeswarar Koil Street,
Purasawalkam,
Chennai – 600 084

.... Petitioner

vs

1.Ligat Ali
High Court Advocate Receiver,
No.73, Law Chambers,
High Court, Chennai – 104

2. K. Ashok Chakravarthy

(Cause title accepted vide Court Order
dated 12.04.2016 made in CMP No.
4568/2016 in CRP No.SR 80490/2015)

.... Respondents

Civil Revision Petition filed under Section 25 of The Tamil Nadu Buildings (Lease and Rent Control Act of 1960) against the Order of the learned VII Judge, Small Causes Court, Chennai and made in M.P.No.360 of 2014 in RCA SR No.13913 of 2013 against RCOP No.1123 of 2007 dated 28.10.2014.

For Petitioner : Mr.AR.L. Sundaresan
Senior Counsel for
Mr.Sandeep S. Shah

For respondent : Mr.V. Lakshminarayanan

ORDER

Challenging the order passed in M.P.No.360 of 2014 in RCA SR No.13913 of 2013 on the file of VII Court of Small Causes, Chennai, the tenant has filed the above Civil Revision Petition.

2. The respondents filed a Rent Control Original Petition in R.C.O.P.No.1123 of 2007 on the file of XIII Judge, Court of Small Causes for fixation of fair rent. The tenant filed her counter and contested the matter. The Rent Controller, after taking into consideration the case of both the parties, allowed the Rent Control Original Petition and fixed the fair rent. Aggrieved over the same, the

alleged tenant has filed an appeal in RCA SR No.13913 of 2013 with a delay of 1045 days in filing the appeal.

3. The Registry of Small Causes Court returned the papers for complying with the defects. However, the papers were represented with 180 days delay. Hence the alleged tenant filed a petition in M.P.No.360 of 2014 to condone the delay of 180 days in representing the papers. The respondents filed their counter disputing the averments, stated in the affidavit, filed in support of the petition.

4. The Rent Control Appellate Authority erroneously dismissed the application, filed by the alleged tenant, to condone the delay of 180 days in representing the papers, as though the alleged tenant filed the application to condone the delay of 1045 days in filing the appeal. The order, passed by the appellate authority is totally non application of mind. Since the delay is only 180 days, the appellate authority should have condoned the same.

5. Mr.V. Lakshminarayanan, learned counsel appearing for the respondents submitted that the Rent Control Appeal was filed by a

Partnership Firm and not by a Sole Proprietorship and therefore, the appeal itself is not maintainable.

6. Mr.AR.L. Sundaresan, learned Senior Counsel appearing for the petitioner submitted that such issues can be decided by the Rent Control Appellate Authority while deciding Sec.5 application, filed by the tenant.

7. Having regard to the submissions made by the learned counsel on either side, I am of the view that the order passed in M.P.No.360 of 2014 can be set aside and remitted back to the Rent Control Appellate authority for fresh consideration.

8. Accordingly, the fair and decreetal order passed in M.P.No.360 of 2014 in R.C.A SR.No.13913 of 2013 are set aside and the matter is remitted back to VII Judge, Court of Small Causes, Chennai for fresh consideration.

9. The Rent Control Appellate Authority is directed to decide the issues, raised by the respondents, with regard to the

maintainability of the appeal, filed by the partnership firm, at the time of deciding the application. With these observations, the civil revision petition is allowed. No costs. Consequently, connected CMP is closed.

05-07-2016

sr

Index:no
website:yes

To

The VII Judge, Small Causes Court, Chennai

M. DURAISWAMY,J.,

sr

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