

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD) No.1757 of 2016 &

C.M.P.No.9294 of 2016

P.L.Subramaniam

... Petitioner

v.

Indira Vijayakumar

... Respondent

Civil Revision Petition filed under section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960 to set aside the order and decree dated 11.02.2016 made in I.A.No.227 of 2015 in R.C.A.No.25 of 2012 on the file of Subordinate Judge, Poonamallee.

For Petitioner : Mr.V.Subdararajan

O R D E R

Challenging the fair and decreetal order passed in I.A.No.227 of 2015 in R.C.A.No.25 of 2012 on the file of Subordinate Court, Poonamallee, the landlord has filed the above Civil Revision Petition.

2. The revision petitioner-landlord filed the Original Petition in R.C.O.P.No.34 of 2009 on the file of Principal District Munsif cum Rent Controller, Poonamallee, for fixation of fair rent.

3. The Rent Controller, fixed the fair rent at Rs.23,795/-. Aggrieved over the same, the tenant has filed an appeal in R.C.A.No.25 of 2012 before the Subordinate Court, Poonamalle.

4. During the pendency of the appeal, since the tenant remained absent, he was set ex-parte and the appeal was dismissed for non-prosecution.

5. Thereafter, the tenant filed an application in I.A.No.227 of 2015 to condone the delay of 53 days in filing the application to restore the appeal. In the affidavit filed in support of the application, the tenant has stated that the landlord filed the eviction petition on the ground of willful default and

owner's occupation and the same was ordered and she has also handed over possession in the year 2012 itself. During the pendency of the proceedings, the landlord initiated fair rent proceeding, which was ordered by the Rent Controller, against which, the tenant has filed the appeal.

6. In the affidavit filed in support of the application, the tenant has further stated that the landlord requested the tenant to withdraw the appeal pending before the Appellate Authority, hence, he did not prosecute the Rent Control Appeal and hence, the appeal was dismissed for non prosecution. Further, he has stated that after the receipt of notice dated 23.8.2014, issued by the landlord, he came to understand that the landlord is claiming fair rent arrears, hence, he filed the application to condone the delay of 53 days in filing the application to restore the appeal, which was dismissed for non prosecution on 18.6.2014.

7. The landlord filed her counter and contested the matter.

8. The Rent Control Appellate Authority, taking into consideration the case of both the parties, condoned the delay on payment of cost of Rs.1000/- finding that the tenant has satisfactorily explained the reasons for the delay.

9. In these circumstance, I am of the view that the Rent Control Appellate Authority has rightly condoned the delay.

10. In view of the above, I do not find any error or irregularity in the order passed by the Rent Control Appellate Authority. The Civil Revision petition is devoid of merits and is liable to be dismissed. Since the Rent Control Appeal is pending from 2012, I direct the Subordinate Court, Poonamallee, to dispose of the appeal in R.C.A.No.25 of 2012, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2016

Index : Yes/No

Rj

To

The Subordinate Court,
Poonamallee,

M. DURAISWAMY,J.,

Rj

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