

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.586 of 2016
and CMP.No.3103 of 2016

N.Magudeswari

.. Petitioner

Vs

1.M/s.Alagu Pharmacy
Rep. by its Managing Partner
Mr.P.Selvam @ P.P.Selvam

2.P.Selvam @ P.P.Selvam
Managing Partner
M/s.Alagu Pharmacy-R

3.S.Meenakshi @ Meenaselvam
Partner
M/s.Alagu Pharmacy-R

4.V.Ramu
Partner
M/s.Alagu Pharmacy-R

Having Office at
Old Door No.142-A & 142-B,
New Door Nos.133B & 133C
Avinashi Road, Hope College
Coimbatore – 641 004.

.. Respondents

Prayer:- Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control Act) 1960 as amended by praying to set aside the order dated 19.01.2016 made in I.A.No.465 of 2015 in R.C.A./C.F.R.SR.No.31591 of 2015 on the file of the Principal Subordinate Judge of Coimbatore.

For Petitioner	:Mr.K.Rajendra Prasad
For Respondent	:No Appearance

ORDER

This revision petition was filed by the landlady, challenging the fair and decreetal order dated 19.01.2016 passed in I.A.No.465 of 2015 in R.C.A./C.F.R.SR.No.31591 of 2015 on the file of the Principal Subordinate Judge of Coimbatore.

2. The brief history leading to the filing of the revision petition is as follows:-

a) The petitioner, as landlady, had leased out a portion of her property to the respondents/tenants by a written lease agreement and the tenants have to hand over the vacant property on the end of the lease period, i.e. on 31.07.2010. To meet out her additional accommodation and to expand her own business, the landlady has called upon the tenants to vacate the property on 31.7.2010, in respect of which a dispute arose between the landlady and tenants. It is also stated that the tenants had forged the signature of the landlady and created a forged lease deed dated 22.02.2012. Thereafter, a police complaint was lodged by the landlady against the tenants. After negotiation, a compromise was entered into between the parties on 29.01.2014. Thereupon, the tenants have agreed to hand over the vacant possession to the landlady on or before 31.07.2014.

b) It is alleged that pending police enquiry, the tenants have filed a suit in O.S.No.135 of 2014 on the file of District Munsif Court, Coimbatore and had obtained an order of temporary injunction against the landlady.

c) The non-compliance of the terms as agreed upon by the tenants in the compromise, resulted in filing of RCOP No.29 of 2014 by the landlady, seeking an order of eviction.

d) Based on the compromise memo, in which the tenants have agreed to vacate and hand over the vacant possession of the property to the landlady on or before 31.10.2015, the Court has passed compromise decree on 28.03.2014. In the compromise decree, it has been specifically stated that the compromise memo filed by the parties shall form a part of the decree.

e) Thereafter, on expiry of the period mentioned in the compromise memo, the tenants have filed an appeal before the Appellate Authority along with an application to condone the delay of 604 days. The said delay has been condoned by the Court below and challenging the same, the present revision petition has been filed.

3. When this Civil Revision Petition was taken up for hearing on 21.03.2016, it was posted "for orders" on 23.03.2016. On that day, there was no representation and it was adjourned to 28.03.2016. Even when it is listed today (29.03.2016), there is no representation on behalf of the tenants.

4. It is contended by the learned counsel for the revision petitioner that a) the tenants having entered into a compromise have no right to file an appeal as against the compromise decree; b) even assuming that the tenants have such a right, the tenants should have preferred an appeal, before the expiry of the period mentioned in the compromise memo, if really, the tenants have any bona fide case and c) the application filed to condone the delay in filing the appeal has been taken out, only with an intention to drag on the proceedings.

5. There are two courses open to the tenants. One is that the tenants would have stated before the Court which recorded the compromise that the compromise was out of compulsion or coercion on the part of the police during enquiry of the complaint preferred by the landlady. In that case, the Court which recorded the compromise would have dealt with that issue. That is not the case

here. When that is not the case, it is far fetched for the appellate Court to come to a conclusion that the tenants might have been put into coercion or force before entering into the compromise. It is equally probable that in order to get the closure of complaint, the tenants would have opted to enter into a compromise and thereafter, the tenants are put forth an allegation of invalidity of compromise. Even if the tenants had some difficulty in expressing themselves before the trial Court, the appeal would have been filed immediately after the compromise decree, if there had been any vitiating factors while entering into the compromise. But, the appeal had not been filed in time. Therefore, the conduct of the tenants would only indicate the procrastinating approach in dealing with their case.

6. It is also submitted before this Court that the police complaint is closed and only thereafter, the compromise memo is filed before this Court.

7. Under the said circumstances, the revision petition is allowed and the order condoning the delay is hereby set aside. The landlady is at liberty to proceed with the Execution Petition pending before the Executing Court and the Executing Court is directed to dispose of the Execution Petition as expeditiously as possible,

preferably within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

29.03.2016

ds

Note : Issue order copy on 11.04.2016

To:

The Principal Subordinate Judge
Coimbatore.

S.VIMALA,J

ds

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29.03.2016