



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.2587 of 2016 (PD)

and

C.M.P(MD)No.12215 of 2016

K.S.V.Kannan

.. Petitioner/petitioner/Petitioner/
Appellant

Vs.

Arunprasath

..Respondent/Respondent/Respondent/
Respondent

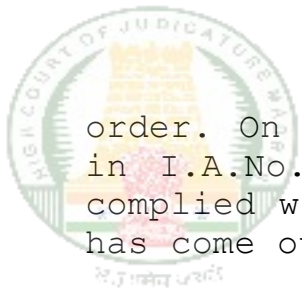
PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to allow this Civil Revision Petition and to set aside the order passed in the learned Subordinate Judge, Theni in I.A.No.9 of 2016 in I.A.No.5 of 2014 in R.C.A.No.5 of 2011, dated 17.06.2016.

For Petitioner : Mr.N.Dilip Kumar
For Respondent : Mr.A.Sivaji
Caveator

ORDER

The petitioner has filed this Civil Revision Petition to set aside the order passed in the learned Subordinate Judge, Theni in I.A.No.9 of 2016 in I.A.No.5 of 2014 in R.C.A.No.5 of 2011, dated 17.06.2016.

2.The petitioner is the tenant. The respondent is the landlord. The respondent filed R.C.O.P.No.13 of 2006 before the District Munsif, Theni for fixation of fair rent. After contest, fair rent was fixed. Against the said order, the petitioner filed R.C.A.No.5 of 2011 before the Sub Court, Theni. Pending R.C.A.No.5 of 2011, the petitioner filed I.A.No.5 of 2014 for appointment of Advocate Commissioner to inspect the petition premises. The said I.A.No.5 of 2014 was dismissed for default on 28.11.2014. Subsequently, the petitioner filed I.A.No.18 of 2015 under Section 5 of Limitation Act to condone the delay in filing an application to restore the I.A.No.5 of 2014 and the said I.A.No.18 of 2015 was allowed. Thereafter, the petitioner filed I.A.No.9 of 2016 to restore the I.A.No.5 of 2014 and the said petition was allowed on 16.06.2016 with a condition to pay a sum of Rs.300/- on or before 16.06.2016. The petitioner did not comply with the conditional



order. On 17.06.2016, the learned Judge dismissed the application in I.A.No.9 of 2016 holding that the conditional order was not complied with. Against the said order of dismissal, the petitioner has come out with the present Civil Revision Petition.

3.The learned counsel for the petitioner submitted that non-compliance of conditional order and non-payment of cost is only due to the Advocates' boycott. The learned Judge erred in dismissing the application for restoration without considering the fact that the application for condonation of delay was allowed.

4.The learned counsel for the respondent/caveator submitted that the petitioner did not comply with the conditional order, therefore, the said application was dismissed. Only to drag-on the proceedings, the petitioner has come out with the present Civil Revision Petition and prayed for dismissal of the C.R.P.,

5.I have heard the learned counsel appearing for the petitioner and the respondent and also perused the entire materials on record.

6.From the materials, it is seen that the application for restoration of appointment of Advocate Commissioner was allowed on condition that the petitioner has to pay a cost of Rs.300/-. Admittedly, the petitioner did not pay the cost and did not comply the condition imposed by the Sub Court, Theni. Therefore, the said application was dismissed for non-compliance of the order. The reason given by the petitioner for not complying the order, is not valid and acceptable. The petitioner has not given sufficient reason for not complying the condition imposed by the Sub Court, Theni. In the circumstances, the learned Judge has rightly dismissed the application by giving cogent and valid reason. There is no illegality or irregularity warranting interference by this Court.

7.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, C.M.P(MD)No.12215 of 2016 is also dismissed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar



To

The Sub Ordinate Judge,
Theni.

WEB COPY

+1cc to Mr.A.Sivaji, Advocate Sr.No. 82455

JAM/07.02.17/MR-VB/3P-3C

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