



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.464 of 2016 (NPD)

and

C.M.P. (MD) .No.1983 of 2016

Soundarrajan

..Petitioner

Vs.

Padmavathi

.. Respondent

Prayer : This Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent) Control Act, 1960, against the fair and decretal order dated 01.02.2016, made in I.A.No.324 of 2015 in R.C.A.No.8 of 2014 on the file of the Principal Sub-ordinate Judge, Madurai.

For Petitioner : Mr.G.Vasudevan

for M/s. S.Kadarkarai

For Respondent : Mr.S.Raghavan

for Mr. G.Adaikalam (for Caveator)

O R D E R

This Civil Revision Petition is filed against the fair and decretal order dated 01.02.2016, made in I.A.No.324 of 2015 in R.C.A.No.8 of 2014 on the file of the Principal Sub-ordinate Judge, Madurai.

2. The petitioner is the tenant. The respondent filed R.C.O.P.No.192 of 2012 for eviction of the petitioner on the ground of willful default, demolition and re-construction. An ex-parte order of eviction was passed on 05.04.2005. The respondent filed an execution petition in E.P.No.90 of 2007. Pending E.P.No.90 of 2007, the petitioner filed I.A.No.190 of 2013, to set aside the ex-parte order of eviction passed in R.C.O.P.No.192 of 2002, dated 05.04.2005. The said I.A.No.190 of 2013 was dismissed on merits on 24.01.2014. Against the said order, the petitioner filed R.C.A.No.8 of 2014. The said Rent Control Appeal was dismissed for default on 20.04.2015. The petitioner filed an application, to restore the order passed in R.C.A.No.8 of 2014, along with a petition in I.A.No.324 of 2015, to condone the delay of 189 days in filing the restoration petition.

3. According to the petitioner, the counsel, who handled the matter, handed over the bundle to an assistant, who is working under the tenant, on his health ground. His assistant did not inform about the same to the petitioner. Only when the notice in the petition for advance hearing of the execution proceedings received by him, he came to know about the dismissal of R.C.A.No.8 of 2014.

4. The learned counsel for the respondent contended that the petitioner is filing petition after petition only to drag on the proceedings. The petitioner has not given any valid reason for condoning the delay. The learned Judge considering the facts and materials on



record, dismissed the application. Against the said order of dismissal, the petitioner has come out with this Civil Revision Petition.

5. The learned counsel for the petitioner contended that the learned Judge failed to consider the fact that earlier counsel handed over the bundle to the assistant of the tenant, which was not brought to the notice of the tenant/petitioner, which resulted the dismissal of the Rent Control Appeal in R.C.A.No.8 of 2014 for default. The petitioner must be given an opportunity to put forth his case on merits and he should not be shut down from contesting the matter. He further stated that the learned Judge failed to consider the well settled judicial pronouncement passed by this Court and Hon'ble Apex Court.

6. The learned counsel appearing for the respondent/caveator submitted that originally eviction was ordered on 05.04.2005. From that date onwards, the petitioner is dragging on the proceedings. The respondent is not able to execute the order of eviction. The petitioner has not given any valid reason and prayed for dismissal of the Civil Revision Petition.

7. Heard the learned counsel appearing for the petitioner as well as the respondent/caveator and perused the materials available on record.

8. From the materials, it is seen that the order of eviction was passed in the year 2005. The petitioner filed the petition to set aside the ex-parte order was dismissed on 24.01.2014. Against that R.C.A.No.8 of 2014 was filed, which was also dismissed for default. The petitioner did not file any application to restore R.C.A.No.8 of 2014, to file within the time limit. The reason given by the petitioner for delay in filing the petition to restore R.C.A.No.8 of 2014, is not sufficient and valid. The attitude of the petitioner is not bona fide. The learned Judge has considered all these aspects and dismissed the Interlocutory Application. In the circumstances, this court finds that there is no irregularity or illegality in the said order warranting interference by this Court. Hence, this Civil Revision Petition is liable to be dismissed.

9. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To
The Principal Subordinate Judge, Madurai.

+1cc to M/s.S.Kadarkarai, Advocate in SR.10844
+1cc to M/s.R.Raja, Advocate in SR.10936

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