



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(MD).Nos.196 and 197 of 2017 and
CMP(MD).Nso.895 and 896 of 2017 in
CRP(MD).Nos.196 and 197 of 2017

P. Krishnamoorthy ... Revision Petitioner in both

CRPs/Respondent/Petitioner/Respondent

Vs.

Mohammed Yusuff ... Respondent in both CRPs/Petitioner/
Respondent/Petitioner

Prayer in CRP(MD).No.196 of 2016: This Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records relating to the docket order dated 10.01.2017 made in I.A.No.88 of 2016 in I.A.No.35 of 2015 in RCOP.No.185 of 2014 on the file of the learned Rent Controller cum Principal District Munsif, Thiruchirappalli and set aside the same.

Prayer in CRP(MD).No.197 of 2016: This Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records relating to the fair and decreetal order dated 16.09.2016 made in I.A.No.24 of 2016 in RCOP.No.185 of 2014 on the file of the learned Rent Controller cum Principal District Munsif, Thiruchirappalli and set aside the same.

For Petitioner : Mr.B. Jameel Arasu

COMMON ORDER

The Civil Revision Petition in CRP(MD).No.196 of 2016 is filed to call for the records relating to the docket order dated 10.01.2017 made in I.A.No.88 of 2016 in I.A.No.35 of 2015 in RCOP.No.185 of 2014 on the file of the learned Rent Controller cum Principal District Munsif, Thiruchirappalli and

<https://hcservices.mca.gov.in/hcservices>

2. The Civil Revision Petition in CRP(MD).No.197 of 2016



is filed to call for the records relating to the fair and decreetal order dated 16.09.2016 made in I.A.No.24 of 2016 in RCOP.No.185 of 2014, on the file of the learned Rent Controller cum Principal District Munsif, Thiruchirappalli and set aside the same.

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3. Issue in both the Civil Revision Petitions are one and the same and hence, both the Civil Revision Petitions are disposed of by this Common Order.

4. The petitioner, tenant is the respondent in RCOP.No.185 of 2014 on the file of the learned Rent Controller cum Principal District Munsif, Thiruchirappalli filed by the respondent. The respondent, landlord is the petitioner in the above said RCOP.

5. The respondent, landlord filed RCOP for eviction on the ground of wilful default against the petitioner, tenant. The respondent filed I.A.No.35 of 2015 under Section 11(4) of the Tamil Nadu Lease and Rent Control Act for a direction to the petitioner to deposit arrears of rent. Even though, the petitioner appeared through Advocate, subsequently, he did not contest the same. The learned Rent Controller, by order an order dated 20.07.2015, directed the petitioner to deposit arrears of rent on or before 13.08.2015. The petitioner did not deposit the arrears of rent as directed by the learned Rent Controller. On 14.08.2015, the learned Rent Controller stopped the rent control proceedings and ordered eviction. The respondent filed E.P.No.8 of 2016 to execute the order of eviction.

6. The petitioner filed I.A.No.24 of 2016 for condoning the delay in filing a petition to set aside the ex parte order of eviction. The learned Judge dismissed the application by an order dated 16.09.2016 holding that order is not an ex parte order and only appeal lies against the order of eviction. In view of the order dated 16.09.2016, the learned Judge allowed the application in I.A.No.35 of 2015. The petitioner also filed I.A.No.88 of 2016 to condone the delay of 385 days in filing an application to set aside the ex parte order dated 20.07.2015 directing the petitioner to deposit the arrears of rent and the same has been dismissed by learned Rent Controller on 10.01.2017.

7. Against both the order of dismissal, the present Civil Revision Petitions have been filed.

8. The learned counsel appearing for the petitioner has made averments made in the affidavit filed before the learned Rent Controller and the grounds of revision raised in the present Civil Revision Petitions. The learned counsel



appearing for the petitioner relied on the Judgment of this Court reported in **2014(6) MLJ 552 (R. Ashok vs. Susila Jayara)** and submitted that the provisions under Section 5 of the Limitation Act particularly applied to the Rent Control proceedings, to condone the delay in filing of the application to set aside the order of eviction.

9. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

10. This Court in the Judgment reported in **2007(3) CTC 822 (S.M.Chandrasekaran Vs. S.S.Jayamani and others)** held that the order relating to rent control authority in RCOP is appealable order and no revision is maintainable and dismissed the Civil Revision Petition. This Court also gave liberty to the respondent to file an appeal in that case. The said Judgement referred to above is applicable to the facts of the present case also.

11. In the result the Civil Revision Petitions are not maintainable and the same are liable to be dismissed and accordingly, the Civil Revision Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed.

12. The petitioner is at liberty to file an appeal against the impugned order before the Appellate Authority, if he so desires. If any such appeal is filed before the rent control authority, the time pending Civil Revision Petitions before this Court shall be excluded, while calculating the period of limitation for the purpose of appeal.

Sd/-

Assistant Registrar[Writs]

/True copy/

Sub Assistant Registrar

To

The learned Rent Controller cum Principal District Munsif,
Thiruchirappalli
+1cc to Mr.B.JameelArasu, Advocate (SR.5398&5399)

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