



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2017

CORAM :

THE HONOURABLE DR.JUSTICE **G. JAYACHANDRAN**

C.R.P. (PD) (MD) No.747 of 2017

WEB COPY

1.P.Ganesan

2.G.Palaniammal

... Petitioners

Vs.

M.Mohamed Nizar

... Respondent

Prayer: The Civil Revision Petition is filed under Article 227 Constitution of India to direct the Sub Court, Ramanathapuram to dispose of I.A.No.5 of 2016 on the file of the Sub Court, Ramanathapuram within a stipulated time.

For Petitioner : Mr.K.P.S.Palanivel Rajan

O R D E R

The Civil Revision Petition has been filed to direct the Sub Court, Ramanathapuram to dispose of I.A.No.5 of 2016 on the file of the Sub Court, Ramanathapuram within a stipulated time.

2.The revision petitioners are the landlord, who have succeeded before the Rent Controller for evicting the tenant, who is the respondent herein.

3.Aggrrieved by the order of the eviction passed by the Rent Controller, Ramanathapuram in R.C.O.P.No.19 of 2008, dated 04.10.2013, the tenant/respondent herein has preferred an appeal in R.C.A.No.18 of 2013 before the Sub Court, Ramanathapuram. On 31.03.2015 the tenant/respondent herein has failed to argue the appeal when the matter was posted for arguments with an endorsement no further adjournment. It appears that the counsel appearing the tenant/respondent has reported no instruction, therefore, the Rent Control Appellate Authority has dismissed the appeal for default on 31.03.2015. Thereafter, on petition for restoration, R.C.A.No.18 of 2013 was restored on file and opportunity had been given to the appellant. The respondent/tenant, who is the appellant in R.C.A.No.18 of 2013 has successfully taken adjournment after adjournment for nearly 1 year and on 22.04.2016 again left the appeal is to be dismissed for default for the second time. It appears that the respondent has I.A.No.5 of 2016 for restoration application and the same is pending for about one year.



4.The grievance of the revision petitioners/landlords is that after suffering a decree of eviction, the respondent herein has preferred appeal but not inclined to conduct the same. For the second time he has allowed the appeal to go for default and not ready to co-operate for the disposal of the appeal on merits. Literally, the tenant/respondent herein is abusing the process of law and squatting over the property despite suffering order of eviction as early as on 04.10.2013.

This Court find force in the submission made by the revision petitioner the R.C.A.No.18 of 2013 is still not been disposed by the appellate Court even after lapse of 4 years. The extraordinary delay in disposing the second restoration petition in any event unwarranted. Therefore, the Rent Control Appellate Authority is directed not to show any further undue indulgence to a party, who is not inclined to litigate on merits but to resort dialectic tactics to protract the proceedings. Therefore, appellate Court instead of keeping I.A.No.5 of 2016 pending may even allow the restoration application, if the counsel for the appellant is ready to put forth his argument in the main appeal forthwith and shall dispose of the appeal on merits at the earliest.

5.The counsel for the revision petitioners states that the I.A.No.5 of 2016 is posted to 24.04.2017. The appellate Court is directed to dispose I.A.No.5 of 2016 on that day and proceed further.

6.With the above direction, the Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar()

/True Copy/

Sub Assistant Registrar

To

The Sub Judge,
Ramanathapuram.

+1cc to M/S.K.P.S.Palanivel Rajan Advocate SR.No.51805

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