



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P. (MD) No.2650 of 2016 (PD)

&

C.M.P. (MD) No.12454 of 2016

The Senior Regional Hindustan
Petroleum Corporation Ltd.,
No.90, 2nd Floor,
MDSR Enclave,
Bharathidasan Road,
Cantonment,
Trichy - 620 001.

.. Petitioner/Petitioner

Vs.

1.S.Sankar Raman

2.Lalitha Sethuraman, W/o.Sethuraman

.. Respondents/Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order, dated 05.10.2016, made in I.A.No.70 of 2016 in O.S.No.44 of 2011, on the file of the Additional Subordinate Court, Kumbakonam.

For Petitioner : Mr.M.Sridher

For R1 : Mr.R.Subramanian

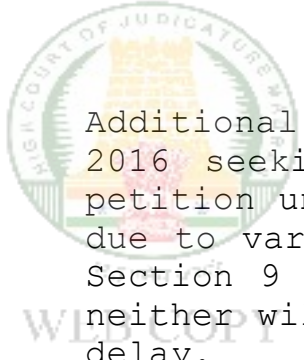
ORDER

This Civil Revision Petition has been filed against the fair and decreetal order, dated 05.10.2016, made in I.A.No.70 of 2016 in O.S.No.44 of 2011, on the file of the Additional Subordinate Court, Kumbakonam.

2. Facts of the case:

(i) The petitioner is the third defendant and the respondents are the plaintiffs in the suit in O.S.No.44 of 2011 on the file of the Additional Subordinate Court, Kumbakonam. The respondents filed the suit for recovery of possession and other reliefs.

(ii) The petitioner filed written statement on 22.11.2011 and contested the suit. Trial commenced. The suit was adjourned for examination of witness. The petitioner filed a petition under Section 9 of the Tamil Nadu City Tenants Protection Act [hereinafter referred to as 'the Act'] before the



Additional Subordinate Court, Kumbakonam, along with I.A.No.70 of 2016 seeking to condone the delay of 1686 days in filing the petition under Section 9 of the Act. According to the petitioner, due to various litigation between the parties, the petition under Section 9 of the Act is not filed within the time. The delay is neither willful nor wanton and therefore, prayed for condoning the delay.

(iii) The respondents filed counter affidavit and opposed the said application and submitted that the petitioner is not in physical possession of the suit property and it is in possession of dealer and therefore, the petition filed by the petitioner under Section 9 of the Act is not maintainable. The petitioner has not given any valid reason for condoning the delay.

(iv) The learned Additional Subordinate Judge, Kumbakonam, considering the averments mentioned in the affidavit and the counter affidavit and also considering the materials available on record, especially, the written statement filed by the petitioner, wherein it has been stated that the petitioner is entitled to invoke Section 9 of the Act, but he did not file any application within the time prescribed in the Act and has not given any acceptable reason for condonation of delay, dismissed the application.

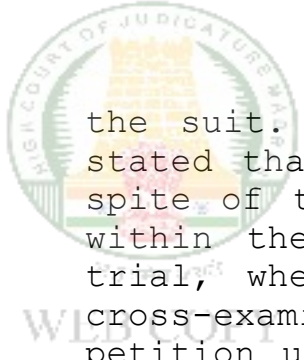
3. Against the said order of dismissal dated 05.10.2016, the petitioner has come out with the present Civil Revision Petition.

4. The learned counsel for the petitioner reiterated the averments mentioned in the grounds of Revision and submitted that the petitioner is a Cental Government Public Sector undertaking under the control of Ministry of Petroleum and Natural Gas. The suit filed by the respondents is premature and they have not given statutory notice. The petitioner did not file any application under Section 9 of the Act on the ground that the suit is not maintainable, as the same is premature and the delay in filing the petition is not intentional. The petitioner has a statutory right to purchase the suit property as per Section 9 of the Act.

5. The learned counsel for the first respondent/caveator submitted that the contention made by the learned counsel for the petitioner is on merits of the suit and the petitioner has not given any valid reason for condonation of delay of 1686 days and has also not made out any case to set aside the order dismissing the application for condonation of delay.

6. I have heard the learned counsel for the petitioner and the first respondent and carefully perused the materials available on record.

7. From the materials on record, it is seen that the suit is filed by the respondents for recovery of possession. The petitioner filed written statement on 22.11.2011 and contesting



the suit. In the written statement itself, the petitioner has stated that he is entitled to invoke Section 9 of the Act. In spite of the same, the petitioner has not filed any application within the time prescribed in the Act. After commencement of trial, when the suit was adjourned on number of occasions for cross-examination of P.W.1, the petitioner has come out with the petition under Section 9 of the Act along with I.A.No.70 of 2016 to condone the delay in filing the application. The only reason given by the petitioner for the delay is by inadvertence, the application is not filed in time. The said reason is not valid and sufficient to condone the delay. The learned Subordinate Judge has correctly taken into consideration the facts and rightly rejected the reason given by the petitioner for condonation of delay by giving cogent and valid reason. There is no illegality or irregularity in the said order warranting interference by this Court.

8. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Additional Subordinate Judge,
Kumbakonam.

+1cc to Mr.SRIDHER, Advocate in SR. No.2921
+1cc to Mr. R.SUBRAMANI, Advocate in SR. No.3150

SMN2
Jsi/PM/AM/27.01.2017/3P-4C

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