

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 17.11.2017****CORAM :****WEB COPY****THE HONOURABLE MRS.JUSTICE J.NISHA BANU****CRP (NPD) (MD) No.1122 of 2017****and****CMP (MD) Nos.5114 and 6202 of 2017**

Sahila

... Petitioner

vs.

1) B.Rajesh Saravanan

2) R.S.Vengatesh

3) R.S.Dinesh babu

... Respondents

Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, against the fair and decreetal order dated 20.04.2017 passed in E.A.No.92 of 2017 in E.P.No.53 of 2016 pending on the file of Additional District Munsif Court, Madurai Town execution the order in RCOP.No.97 of 2015 on the file of the Rent Controller's Court (Principal District Munsif, Madurai).

For Petitioner

: Mr.P.Ganapathi Subramanian

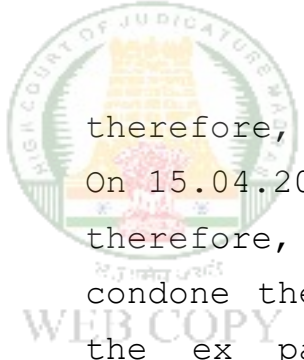
For Respondents

: Mr.J.Alaguram Jothi

ORDER

This revision petition has been filed against the fair and decreetal order dated 20.04.2017 passed in E.A.No.92 of 2017 in E.P.No.53 of 2016 in RCOP.No.97 of 2015 pending on the file of Additional District Munsif Court, Madurai Town.

2.The revision petitioner is the respondent in RCOP.No.97 of 2015. In the RCOP, ex parte order was passed on 01.07.2015 against the revision petitioner and to set aside the same, she filed I.A.No.118/2015, wherein, a conditional order was passed to pay the cost of Rs.200/- on or before 24.03.2016. The cost was not paid within the stipulated time due to ill-health of the petitioner and



therefore, the set aside petition in I.A.No.118/2015 was dismissed. On 15.04.2016, ex parte decree was passed against the petitioner and therefore, the petitioner has filed a petition in I.A.No.129/2017 to condone the delay of 306 days in filing the petition to set aside the ex parte decree. Pending I.A.No.129/2017, the revision petitioner filed E.A.No.92/2017 in E.P.No.53 of 2016 in RCOP.No.97 of 2015 to stay the E.P till the disposal of I.A.No.129/2017.

3.The respondents are petitioners in E.P. They would contend that the revision petitioner has not paid the cost of Rs.200/- despite sufficient opportunities and I.A.No.118/2015 was dismissed on 29.03.2016. Though the petitioner has entered appearance through his counsel on 26.10.2016 in E.P.No.53/2014 even at that time, the petitioner did not file stay application. It is further contended that to set aside the decree, interim application is not maintainable. Further, from November 2013 onwards, the respondents have not paid the rent and only to protract the proceedings the petitioner in one way or other, prolonging the issue. According to the respondents, the petition filed by the revision petitioner to set aside the ex parte decree is not even taken up on file as on date and therefore, the order passed by the learned Judge in dismissing the interim application to stay the E.P does not require any interference by this Court.

4.Learned counsel for the respondents would submit that the revision petitioner filed an application for extension of time for payment of cost and that application was served on the respondents, but the revision petitioner did not take any steps to pay cost, whereas, she filed a petition to set aside the ex parte decree with the petition to condone delay and even she has not pursued that application and condone delay petition is pending from March 2017 and till today, she has not taken any steps to proceed with the matter and not paid rent from 2013 onwards.



5. Though this Court is not able to accept the reason assigned by the learned Judge in dismissing the application, but in this matter, the conduct of the petitioner has to be looked into. From 2013 onwards, she has not paid the rent to the landlord and when the Court has come forward to set aside the ex parte decree, on payment of cost of Rs.200/-, she had not paid the cost, but filed an application to extend the time for payment of cost and that application was also not pursued by the revision petitioner. On the contra, she filed a petition to set aside the ex parte decree with the petition to condone delay and even she has not proceeded with the same, but has come forward with the present petition before the E.P Court for an interim order to stay E.P.

6. The above sequence of events would show that the intention of the revision petitioner in filing applications one after another is only to protract the proceedings. Even otherwise, the petitioner cannot proceed with the proceedings without paying the rent. Therefore, I am not inclined to interfere with the impugned order.

Accordingly, this Civil Revision Petition is dismissed. No costs. Interim order already granted is vacated and CMP(MD)No.5114 is dismissed and CMP(MD)No.6202 of 2017 is allowed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Additional District Munsif Court,
Madurai Town.

+1cc to M/S.J.ALAGURAM JOTHI, Advocate SR.No.87914.

CRP (NPD) (MD) No.1122 of 2017
17.11.2017