



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.(MD)Nos.2406 of 2017 & 298 and 299 of 2018
and
C.M.P.(MD).No.11439 of 2017 in C.R.P.(MD).No.2406 of 2017

Akbar Ali .. Petitioner in all the petitions /
Petitioner / Respondent/ Tenant

Vs.

Muruganantham .. Respondent in all the petitions /
Respondent / Petitioner / Landlord

PRAYER in CRP.(MD).No.2406 of 2017:

Petition filed under Article 227 of the Constitution of India, praying to set aside the order, dated 18.09.2017, passed in E.P.No.16 of 2017 in R.C.O.P.No.18 of 2015 by the learned Principal District Munsif cum Judicial Magistrate, Karaikudi.

COMMON PRAYER in CRP.(MD).Nos.298 and 299 of 2018:

Petitions filed under Article 227 of the Constitution of India, praying to set aside the orders, dated 15.12.2017, passed in I.A.Nos.68 and 69 of 2017 in R.C.O.P.Nos.17 and 18 of 2015 by the learned Principal District Munsif cum Judicial Magistrate, Karaikudi.

For petitioner in
all the petitions : Mr.M.Shakul Hameed

For respondent in
all the petitions : Mr.R.Sundar Srinivasan

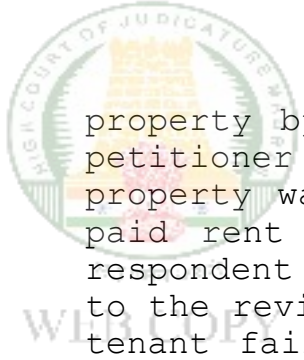
COMMON ORDER

As the issue involved in all the civil revision petitions are interrelated to each other, they were heard together and are disposed of by way of this common order.

2. The brief facts, which are necessary to decide these petitions, are as follows:

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

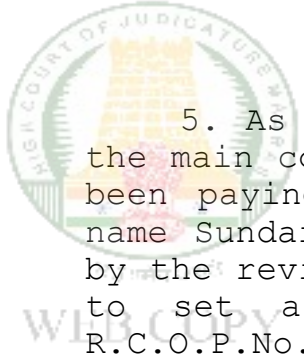
In the year 1962, the father of the revision petitioner inducted as a tenant in the property by the then owner of the



property by name Chidambaram Chettiar. The father of the revision petitioner / tenant died in the year 2009 and thereafter, the suit property was occupied by the revision petitioner / tenant and they paid rent to the tune of Rs.390/- p.m. In the year 2011, the respondent / landlord purchased the same and the same was intimated to the revision petitioner / tenant. But, the revision petitioner / tenant failed to pay rent to the respondent / landlord from 2011 onwards and therefore, the respondent / landlord has filed R.C.O.P.No.17 of 2015 for fixation of fair rent from the date of petition till the date of handing over possession and R.C.O.P.No.18 of 2015 for eviction on the ground of wilful default and own occupation. Since the revision petitioner / tenant failed to appear before Court below, R.C.O.P.No.18 of 2015 were decreed in ex parte. Subsequently, the execution petition filed in E.P.No.16 of 2017 in R.C.O.P.No.18 of 2015 was also ordered, against which, he has filed C.R.P.(MD).No.2406 of 2017 before this Court. Subsequently, on the failure of the revision petitioner / tenant to appear before the Court, an ex parte order has been passed in R.C.O.P.No.17 of 2015 also. In order to condone the delay of 496 days and 567 days in filing petitions to set aside the ex parte orders in R.C.O.P.(MD).Nos.17 and 18 of 2015 respectively, the revision petitioner / tenant has filed I.A.Nos.68 and 69 of 2017 respectively and the same were dismissed, against which C.R.P.(MD).Nos.298 and 299 of 2017 have been filed by the revision petitioner / tenant.

3. Heard the learned counsel for the revision petitioner and the learned counsel for the respondent and perused the records carefully.

4. It is seen from the record that after receipt of notice and filing counter, the revision petitioner / tenant has failed to appear before the Court below on several occasions and therefore, ex parte orders were passed. The only reason assigned by the revision petitioner for condoning the delay in filing a petition to set aside the ex parte orders is that he was suffered by jaundice and he was staying in Kerala and taking treatment for the same and only one week before filing the said petitions, he came to know about the said ex parte order. But, a perusal of the record would go to show that in the petition to set aside the ex parte order in E.P., the revision petitioner / tenant has given a different reason for his absence during the very same period. It is also seen from the record that during the period which the revision petitioner / tenant stated to have taken treatment in Kerala, the revision petitioner / tenant has contested the R.C.O.P.No.17 of 2015 by engaging a counsel, which would go to show that he has purposefully left another RCOP filed for eviction as ex parte. More over, the revision petitioner / tenant did not produce any document to substantiate his contention that he stayed at Kerala and took treatment for jaundice about one and half years. This Court does not find any reason to interfere with the order passed by the Court below in I.A.Nos.68 and 69 of 2017 in R.C.O.P.Nos.17 and 18 of 2015.



5. As far as the petition in C.R.P.(MD).No.2406 of 2017, it is the main contention of the revision petitioner / tenant that he has been paying rent regularly to the son of Chidambaram Chettiar by name Sundaresan and therefore, there is not default in paying rent by the revision petitioner / tenant and that he has filed petitions to set aside the ex parte order in I.A.No.69 of 2017 in R.C.O.P.No.18 of 2015.

6. A perusal of the record would go to show that the revision petitioner / tenant has not produced any document, in order to substantiate his contention that he has been paying rent regularly without any default to Sundaresan S/o.Chidambaram Chettiar. By producing the death certificate of Chidambaram Chettiar, the respondent / landlord has stated that the said Sundaresan is not the legal heir of the said Chidambaram Chettiar. The application stated to be pending by the revision petitioner / tenant to set aside the ex parte order, has already come to an end and as stated earlier, this Court also is not inclined to interfere with the same. It appears that only in order to drag on the proceeding, the revision petitioner / tenant has filed the above interim applications and the Court below has rightly dismissed the same.

7. In view of the above, all the civil revision petitions are liable to be dismissed and are, accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

The Principal District Munsif
cum Judicial Magistrate,
Karaikudi.

+1CC TO M/S.R.SUNDAR SRINIVASAN, ADVOCATE, SR NO.5018

C.R.P.(MD)Nos.2406 of 2017
and 298 and 299 of 2018
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gcb

MS/SV-MMS/SAR-2/22.03.2018/3P.3C