



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 21.02.2018
PRONOUNCED ON : 27.03.2018

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

C.R.P(NPD) (MD) .No.1055 of 2011

Mahatma Human Rights Organization

Nagercoil. Reg.No.131/2008

represented by its President

F.S.Prince,

... Petitioner/Petitioner/Appellant

Vs.

1.Lalitha Bai

2.Joseph

... Respondents/Respondents/Respondents

PRAYER: Civil Revision Petition is filed under Section 25 of Limitation Act to call for the records of the Learned Principal Sub-Judge, Nagercoil in I.A.No.110 of 2010 in R.C.A.SR.No.7397 of 2010 and set aside the fair and decretal order, dated 02.03.2011.

For Petitioner : Mr.S.Deenadhayalan

For Respondent 1 : No Appearance

For Respondent 2 : Dismissed

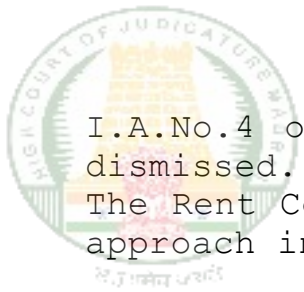
O R D E R

This Civil Revision Petition has been preferred against the order dated 02.03.2011, passed in I.A.No.110/2010 in R.C.A.SR.No.7397/2010 by the learned Principal Sub-Judge, Nagercoil.

2.The brief facts of the case are as follows:

The first respondent herein leased out her property to the second respondent. But, the second respondent has encroached the adjacent property also. Therefore, the first respondent herein filed R.C.O.P.No.38 of 2009 before the Rent Controller, Nagercoil. Pending RCOP, the petitioner herein has filed an application in I.A.No.4 of 2010 to implead himself as second respondent and the same was dismissed on 13.07.2010. Against which, the petitioner herein filed R.C.A.SR.No.7397 of 2010 before the Principal Sub Court, Nagercoil with delay condonation petition in I.A.No.110 of 2010 to condone the delay 49 days caused in filing the appeal. The said I.A.No.110 of 2010 was dismissed on 02.03.2011. Against which this Civil Revision Petition has been filed.

3.The learned counsel for the petitioner submitted that the <https://hcsr.cse.courts.nic.in/hcsr/case> is the original tenant under the first respondent and hence he has to be impleaded as the second respondent in the main RCOP. Hence, the petitioner herein filed



I.A.No.4 of 2010 to implead himself. But the said petition was dismissed. In filing the appeal, the delay of 49 days occurred. The Rent Control Appellate Authority ought to have adopted liberal approach in dealing with the delay condone application.

4.The learned counsel for the revision petitioner has further submitted that the petitioner has explained sufficient reason for condoning the delay of 49 days and without impleading the petitioner as one among the necessary party, the main RCOP No.38 of 2009 could not be decided. According to the learned counsel for the petitioner, the learned Sub Judge has failed to follow the dictum laid by the Apex Court and the High Court while dealing with the condone delay application.

5.The learned counsel appearing for the respondent submitted that the petitioner has wrongly mentioned the days of delay. The rental agreement was entered only between the first and the second respondents herein. The revision petitioner is not the tenant under the first respondent. The suit in O.S.No.588/2009 and I.A.No.556/2009 filed by the revision petitioner as tenant were already dismissed. Hence, he prays for dismissal of this Civil Revision Petition.

6.Heard both sides and perused the materials available on record.

7. The argument of the Civil Revision Petitioner before the Rent Control Forum is that this petitioner is a tenant in the property. But it is seen that already O.S.No.588/09 and I.A.No.556/09 were filed stating that he is the tenant in the suit property and the same were already dismissed. Hence, the petition filed to implead himself as tenant in the suit premises is not maintainable. The learned Subordinate Judge, Nagercoil, has perused the facts stated by both sides and has rightly observed that the petitioner is colluding with the second respondent to deny the right of the landlord and only to harass the landlord, who is an aged about 75 years age old person, the petition was filed. The Rent Control Appellate Authority has also observed that the petitioner herein, who claims himself as original tenant, has not filed even a single document to prove that he is tenant in the premises. In my considered opinion, there is no error in the order of the learned Principal Subordinate Judge, Nagercoil.

8. In the result, this Civil Revision Petition is dismissed. No costs.

Sd/

Assistant Registrar (CS-I)

/True copy/



To

1.The Principal Subordinate Judge, Nagercoil

2.The Section Officer, V.R.Section,
Madurai Bench of Madras High Court, Madurai.(2 COPIES)

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