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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2018

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THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

CRP (NPD) (MD) .No.1847 of 2011
and
MP (MD) No.1 of 2011

Muthulakshmi .. Appellant/Petitioner/Petitioner

Vs.

Maruthaiveeran (died)

- 1.Seerangammal
- 2.Balasubramanian @ Balu
- 3.Kannan
- 4.Ganesan
- 5.Ammaiappan
- 6.Maragatham
- 7.Dhavamani
- 8.Murali
- 9.Subbammal

...Respondents/Respondents/Respondents

PRAYER: Civil Revision Petition filed under Section 25 of Lease and Rent Control Act, 1960 against the fair and decreetal order dated 22.08.2011 passed in I.A.No.50 of 2004 in R.C.A.No.34 of 1991 on the file of the Principal Sub Court, Dindigul.

For Petitioner	:	Mr.P.Thirumahilmaran
For Respondent 2	:	Mr.S.Anand Chandrasekar for M/s.Sarvabhauman Associates
For Respondents 1,3 to 9	:	No Appearance

O R D E R

This Civil Revision Petition is filed against the fair and decreetal order dated 22.08.2011 passed in I.A.No.50 of 2004 in R.C.A.No.34 of 1991 on the file of the Principal Sub Court, Dindigul.

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

The first respondent deceased Maruthaiveeran had filed a petition for eviction in R.C.O.P.No.96/1988 and the same was allowed. Against which the R.C.A.No.34/1991 was filed and the same was dismissed for default. After the death of the said Maruthaiveeran, the revision petitioner had not added the legal heirs of the Maruthaiveeran as parties in the Rent Control Appeal. The revision petitioner has filed the delay condonation petition to condone the delay caused in restoration of Rent Control



Appeal.No.34/1991. The learned Sub Judge, Dindigul has dismissed the delay condonation application, against which, the petitioner has preferred the present revision.

3.The learned counsel for the petitioner submitted that the petition mentioned property was purchased by this petitioner from Maruthaiveeran. Hence, she cannot vacate the premises and it belongs to the revision petitioner. Since the petitioner suffered by Jaundice he was unable to restore the Rent Control Appeal in time. Hence he prays for setting aside the order of the Rent Control Appellate Authority.

4.The learned counsel appearing for the respondents submitted that the revision petitioner had not taken any steps to implead the respondents as the legal heirs of Maruthaiveeran. Only after filing execution petition in E.P.No.351/2004 for delivery, the revision petitioner has filed the I.A.No.50/2004. Hence this petition is to be dismissed.

5.After perusal of records and upon hearing the arguments on both sides, the Principal Sub Court, Dindigul has dismissed I.A.No.50/2004. Aggrieved by the same, the revision petitioner has filed this Civil Revision Petition.

6.Heard both sides and perused the documents.

7.This Civil Revision Petition has been preferred against the order passed in I.A.No.50/2004 in R.C.A.No.34/1991. I.A.No.50/2004 was filed by the petitioner to condone the delay of 1239 days in filing the petition to restore the appeal. The reasons stated by the petitioner are that the petitioner was ill due to jaundice and on the basis of the decree obtained by the respondent in O.S.No.575/2003, E.P.No.351/2004 was filed and there was also a suggestion by the respondent for settlement, but he has not acted as informed by him. The Trial Court, after gone through all the proceedings and the reasons stated by the petitioner, has dismissed the petition. The date of the death of first respondent/Maruthaiveeran is 27.09.1995 and the same was mentioned in the execution proceedings. The Maruthaiveeran has executed the sale deed on 15.02.1995. This fact was not mentioned in the Rent Control Appeal even when the said 1st respondent/Maruthaiveeran was alive.

8.The learned counsel for the second respondent/landlord has argued that the respondent being land owner has filed the Execution Petition for execution of the decree passed in Rent Control Original Petition and the revision petitioner has received the notice in Execution Petition and only after making appearance in the Execution proceedings, he has filed a petition to set aside the same. Already the Rent Control appellate authority has given reasonable time to take steps regarding the death of respondent/landlord. Since the petitioner has not taken any steps to add the legal heirs of



Maruthaiveeran, the Rent Control appellate authority dismissed the Rent Control Appeal. There is no bonafide representation made by the petitioner before the Rent Control Appellate Authority for the delay caused in filing the petition to set aside the dismissal order of the Rent Control Appellate authority.

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9. The reasons stated by the petitioner for the delay are he was suffering from jaundice from the year 2011 and he was unable to move anywhere. But on perusal of records it is seen that the petitioner has filed a suit in the year 2013. Hence the reason stated by the petitioner for such an abnormal delay, that too after receiving the notice in the execution proceedings, is not acceptable. Since the opportunity granted by the Rent Control Appellate Authority for taking steps regarding the death of the respondent namely Maruthaiveeran was not utilized by the petitioner, the Appellate authority dismissed the Rent Control Appeal. The delay condonation application was filed only to make further delay in getting the decree executed. Hence there is no merit in the said application and the order of the Court below does not require any interference and the same is dismissed and the Rent Control Appellate Authority is directed to proceed with the Execution Proceedings at the earliest and dispose of the same according to law.

10. With the above direction, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub-Assistant Registrar

To

1. The Principal Subordinate Judge, Dindigul.
2. The Principal District Munsif, Dindigul

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

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RL/5C/3P/SKN/RSK/SAR1/6/4/2018

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