

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

CRP.(NPD).Nos.4333 & 4334 of 2012
and
M.P.No.1 of 2012

- 1.Badruddin Mohamedally
- 2.Mariam Badruddin
- 3.Mohammed Badruddin
- 4.Khujam Badruddin
- 5.Haider Badruddin
- 6.Quresh Badruddin
- 7.Munira Shoeb
- 8.Yasmin S.Lehri
- 9.Gulmar Fakruddin
- 10.Fathima Tayebally

... Petitioners in both C.R.Ps

(Petitioners 1, 2 & 7 represented by the
5th Petitioner as their power of attorney
holder Haider Badruddin 9 & 10
represented by the 8th Petitioner as their
power of attorney holder Yasmin S.Lehri)

VS.

Universal Pipe Distributors,
No.242, (Old No.134),
Angappa Naicken Street,
Chennai - 600 001.
Also at No.51, Sembudoss Street,
Chennai - 600 001.

... Respondent in both C.R.Ps

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India against the order and decree dated 18.10.2012 passed in E.A.Nos.144 & 148 of 2010 in E.P.No.373 of 2010 in R.C.O.P.No.2473 of 2008 on the file of the XV Judge, Small Causes Court, Chennai.

In both C.R.Ps:

For Petitioner : Mr.V.Bhiman
for M/s.Sampathkumar and Associates

For Respondents : No appearance

COMMON ORDER

The legal representatives of the landlord are the revision petitioners herein. They filed C.R.P.Nos.4333 and 4334 of 2012 against the orders passed in E.A.Nos.144 and 148 of 2010 in EP.No.373 of 2010 in RCOP.No.2473 of 2008.

2. The original landlord filed R.C.O.P.No.2473 of 2008 before the XV Judge, Small Causes Court, Chennai for ordering eviction of the petition premises and directing the respondent to vacate and deliver the vacant possession on the ground that the respondent / tenant ceased to occupy the premises for more than three years. Since, the respondent / tenant had not contested the case, exparte order of eviction was passed on 30.10.2009 in R.C.O.P.No.2473 of 2008.

3. Thereafter, the revision petitioners / landlord have filed E.P.No.373 of 2010 for delivery of possession and the respondent / tenant was set ex-parte in the said execution petition and delivery of possession was ordered on 16.11.2010. Subsequently, the respondent / tenant has filed E.A.Nos.144 and 148 of 2010 for setting aside the ex-parte orders passed in RCOP.No.2473 of 2008 and E.P.No.373 of 2010. After contest, the learned XV Judge, Small Causes Court, Chennai allowed both the petitions, as against which, the present Civil Revision Petitions are filed by the revision petitioners / landlord.

4. No appearance on behalf of the respondent.

5. On perusal of the records, it is seen that R.C.O.P.No.2473 of 2008 was filed for eviction of the tenant from the petition premises and for delivery of the same. The eviction was ordered on 30.10.2009. Thereafter, in the execution proceedings, delivery of possession was ordered on 16.11.2010. At this juncture, the respondent / tenant has presented two applications, as mentioned above, ie., E.A.Nos.144 & 148 of 2010, (i) to set aside in the exparte order passed in RCOP.No.2473 of 2008 and (ii) to set aside the exparte order of delivery of possession passed in EP.No.373 of

2010.

6. The learned counsel appearing for the revision petitioners / landlord would submit that date of knowledge has been taken for filing E.A. There is enormous delay in filing EA.Nos.144 and 148 of 2010 and without a delay petition, the trial Court ought not have entertained the said applications. In the facts and circumstances of the present case, it is evident that the date of knowledge has been taken for filing EA. It is also seen that the Trial Court has allowed EA.Nos.144 and 148 of 2010 without condoning delay. In view of the same, the orders passed by the learned XV Judge, Small Causes Court, Chennai are liable to be set aside.

7. Accordingly, the orders passed in E.A.Nos.144 and 148 of 2010 are set aside and the Civil Revision Petitions are allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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10.12.2019

mtl

Index: Yes/No

Speaking/non-speaking order

RMT. TEEKAA RAMAN, J.

mtl

To

The learned XV Judge,
Small Causes Court,
Chennai.



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