



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2019

CORAM :

THE HONOURABLE MRS. JUSTICE S. RAMATHILAGAM

C.M.P. (MD) No.2174 of 2019

in

C.M.P. (MD) No.11089 of 2017

in

CRP (MD) No.SR10092 of 2017

M.Kasi Chettiyar ...Petitioner/Petitioner/Petitioner

vs.

R.M.Jagannathan ...Respondent/Respondent/Respondent

PRAYER in C.M.P. (MD) No.2174 of 2019:- Civil Miscellaneous Petition filed under Order IX Rule 9 of the Code of Civil Procedure, to restore the C.M.P. (MD) No.11089 of 2017, which was dismissed on 06.12.2017.

PRAYER in C.R.P. (MD) No.SR10092 of 2017:- Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, 1960 to set aside the fair and decreetal order of learned Rent Control Appellate Authority/Sub Court, Pudukottai rendered in R.C.A.No.5 of 2014 on 10.11.2016 confirming the order of learned Rent Controller, District Munsif Court, Pudukottai in R.C.O.P.No.18 of 2009 dated 04.10.2013 in pursuance of order passed in I.A.No.17 of 2016 on 10.11.2016.

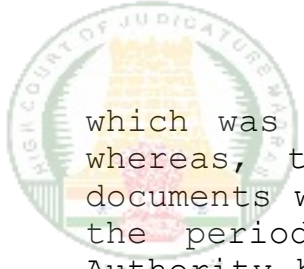
For Petitioner : Mr. N.Balakrishnan

ORDER

The Civil Miscellaneous Petition has been filed to restore the C.M.P. (MD) No.11089 of 2017, which was dismissed on 06.12.2017.

2.C.M.P. (MD) No.11089 of 2017 was filed by the petitioner to condone the delay of 201 days in re-presenting the civil revision petition. The said delay was condoned on condition to deposit a sum of Rs.1,000/- to the Legal Aid Service Authority. The said order was passed on 06.12.2017, whereas, the petitioner has not paid the amount and now the learned counsel seeks an extension of time to comply with the said condition.

3.Originally the Civil Revision Petition has been filed as against the order passed in I.A.No.17 of 2016. I.A.No.17 of 2016 was filed by the petitioner for producing the Chellan and also for the notary attested copies before the Rent Control Authority. The petitioner herein has preferred the said I.A., to file the said documents as proof for the rent and the said petition was dealt with by the Rent Control Authority. The said documents are receipt regarding the payment,



which was deposited for the period from 01.01.2012 to 30.09.2012, whereas, the Rent Control Authority has observed that the said documents were related to the rent and they are also not relevant to the period of filing the appeal. The Rent Control Appellate Authority has found that these documents have been filed before the Rent Controller and these documents were related to the subsequent period and hence, the said documents were considered by the Appellate Authority as not relevant. As against the dismissal, the petitioner has preferred the said I.A.

4.It is found by the Rent Control Appellate Authority that the said two documents, which were filed as proof for the rent for the said period, were not relevant for the said period and hence, the Rent Control Appellate Authority dismissed the appeal, which is very much reasonable and the same does not warrant any interference of this Court.

5.The petitioner is also undertaking to file an affidavit to vacate the premises within the reasonable time. In the undertaking affidavit, the petitioner sought for one year time to vacate the premises. Further, he contended that he unconditionally undertakes to vacate the subject tenanted building within the period of time permitted by this Court and also agrees to hand over the key to the respondent on the fixed date without fail.

6.On perusal of the records, it is observed that R.C.A.No.5 of 2014 filed by the petitioner was dismissed by the Rent Controller Appellate Authority on 10.11.2016 with a direction to the petitioner to vacate the premises within a period of three months. Aggrieved by the said order, the present Civil Revision Petition has been filed and the same has been proceeded till date.

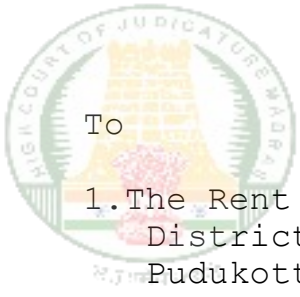
7.Now, the petitioner seeks one year time to vacate the premises by way of filing undertaking affidavit, which is not at all reasonable. Already the time granted by the first appellate Court has elapsed and by way of filing the present civil revision petition two years have been lapsed and therefore, the further one year time sought by the petitioner cannot be granted.

8.In view of the above, the present civil miscellaneous petition is dismissed and CRP(MD) No.SR10092 of 2017 is also rejected at the SR stage itself. The petitioner is directed to vacate the premises on or before 08.05.2019 and hand over the key to the respondent. No costs.

Sd/-
Assistant Registrar()

/True Copy/

Sub Assistant Registrar(CS-)



To

1.The Rent Controller,
District Munsif Court,
Pudukottai.

2.The Rent Control Appellate Authority/Sub Court,
Pudukottai.

C.M.P. (MD) No.2174 of 2019
in
CRP (MD) No.SR10092 of 2017
and
C.R.P. (MD) No.SR10092 of 2017
04.03.2019

SP/09.04.2019/ 3P/3C