



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.11.2019**

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (NPD) (MD) Nos.2046 & 2047 of 2013

PD.Ponnusamy (died)

1.P.D.P.Chinnadurai

2.P.D.P.Mohan

3.P.D.P.Stephen Subburaj

4.P.D.P.Vels Raja

... Petitioners/Petitioners/
Proposed Appellants in both C.R.Ps.,

Caused title amended vide
order dated 29.10.2013 in
MP(MD).No.1 of 2013 in
CRP.SR.No.43901 of 2013

vs.

Soosairaj

... Respondent/Respondent/
Respondent in both C.R.Ps.,

Prayer in C.R.P. (MD) No.2046 of 2013:- This Petition is filed under Section 25 (1) of Tamil Nadu Buildings (Lease and Rent) Control Act No.18 of 1960 as amended by Act No.23 of 1973 and Act No.1 of 1980, to set aside the fair and decreetal order dated 09.07.2013 passed in I.A.No.26 of 2013 in RCA.No.1 of 2010 on the file of the Subordinate Court, Valliyoor.

Prayer in C.R.P. (MD) No.2047 of 2013:- This Petition is filed under Section 25 (1) of Tamil Nadu Buildings (Lease and Rent) Control Act No.18 of 1960 as amended by Act No.23 of 1973 and Act No.1 of 1980, to set aside the fair and decreetal order dated 09.07.2013 passed in RCA.No.1 of 2010 on the file of the Subordinate Court, Valliyoor (Appellate Authority) Valliyoor dismissing as abated against the order dated 22.01.2010 passed in RCOP.No.1 of 2004 on the file of the Principal District Munsif (Rent Controller) Valliyoor.

For Petitioners

in both C.R.Ps.,

: M/S.Jessi Jeeva Priya

For Respondent

in both C.R.Ps.,

: Mr.S.J.Chakravarthy

for M/s.Eddy and Embboss



COMMON ORDER

C.R.P.(MD) No.2046 of 2013 is filed challenging the order passed in I.A.No.26 of 2013 in RCA.No.1 of 2010 on the file of the Subordinate Court, Valliyoor.

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2.C.R.P.(MD) No.2047 of 2013 is filed challenging the order passed in RCA.No.1 of 2010 in RCOP.No.1 of 2004 on the ground of abatement on the file of the Principal District Munsif (Rent Controller) Valliyoor.

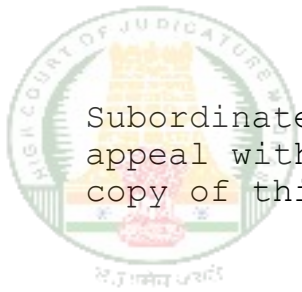
3.The short fact necessary for disposing the above revision petitions is that the petitioner/landlord, P.D.Ponnusamy, filed a petition in RCOP.No.1 of 2004 for evicting the respondent/tenant on the ground of wilful default and own use and occupation. The said petition was dismissed by the learned Principal District Munsif, Valliyoor. Challenging the same, the landlord has filed RCA.No.1 of 2010. Pending the appeal, the landlord, P.D.Ponnusamy died leaving behind the petitioners herein as his legal heirs.

4.The revision petitioners had filed an application in I.A.No.26 of 2013 to condone the delay of 87 days in filing the petition to implead them as the legal representatives of the deceased P.D.Ponnusamy and the same has been dismissed by the learned Subordinate Judge, Valliyoor stating that no valid reason has been stated to entertain the petition for condoning the delay and the learned Judge has also dismissed the RCA No.1 of 2010 on the ground of abatement.

5.Heard the learned counsel on either side.

6.Considering the fact that the delay is just 87 days and the appellate Court ought to have exercised some laxity in condoning the delay, these Civil Revision Petitions are allowed.

7.In so far as I.A.No.26 of 2013 is concerned, the order passed in I.A.No.26 of 2013 in RCA.No.1 of 2010 on the file of the Subordinate Court, Valliyoor, is hereby set aside and the delay of 87 days is condoned and the revision petitioners herein are brought on record as legal representatives of the deceased P.D.Ponnusamy. Insofar as RCA.No.1 of 2010 is concerned, the order passed in RCA.No.1 of 2010 in RCOP.No.1 of 2004 on the ground of abatement on the file of the Sub Judge, Valliyoor, is hereby set aside and the matter is remitted back to the Sub Court, Valliyoor. The learned



Subordinate Judge, Valliyoor is directed to dispose of the above appeal within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Subordinate Judge,
Valliyoor.

2.The Principal District Munsif,
Valliyoor.

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-96288[F] dated 06/11/2019)

+2 CC to M/s.EDDY & EMBBOSS LAW FIRM, Advocate (SR-96653 & 96654 dated 07/11/2019)

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05.11.2019

JMN(13.12.2019) 3P : 6C