



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD) No.146 of 2018(PD)

T.Saravanan ... Petitioner/Respondent/Respondent
vs.
K.V.Ramesh Babu ... Respondent/Petitioner/Petitioner

PRAYER:- Civil Revision Petition filed the under Article 227 of the Constitution of India, to struck of the E.P.No.228 of 2017 in R.C.O.P.No.59 of 2016 on the file of the Additional District Munsif Court, Madurai Town, Madurai District.

For Petitioner : Mr.S.Muthalraj

For Respondent : Mr.T.R.Subramanian

ORDER

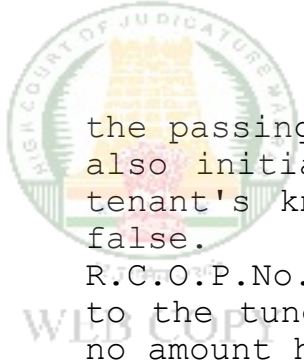
This Civil Revision Petition has been filed to struck of the E.P.No.228 of 2017 in R.C.O.P.No.59 of 2016 on the file of the Additional District Munsif Court, Madurai Town, Madurai District.

2.For the sake of convenience, the parties will be referred to as per their rank before the trial Court.

3.The tenant has filed an unnumbered I.A., in I.A.No..... of 2017 to condone the delay of 5 days in filing set aside the ex parte order passed on 06.02.2017. The grievance of the tenant is that he was not served with the postal cover and only an intimation was given to him. So, he was not aware of the contents of the said cover. The fact of passing the decree was came to his knowledge only on 17.08.2017.

4.The tenant contended that because of his business in various place, he could not approach the landlord to settle the matter. Hence, he states that he has a good case and the ex parte order against him has to be set aside.

5.The landlord contended that the reason stated by the tenant to struck of the E.P., proceedings is not fair and unwanted. The tenant contended that he has got information only about the notice and the contents of the same is not a genuine one. When the date of



the passing of the decree on 06.02.2017, the E.P., proceedings were also initiated and the passing of the ex parte decree came to the tenant's knowledge only after the execution proceedings is totally false. Further, the landlord contended that he has filed R.C.O.P.No.59 of 2016 for wilful default and the arrears of rent is to the tune of Rs.1,17,000/-. It is also observed from both side, no amount has been deposited by the tenant.

6.Further, the landlord contended that in the execution proceedings delivery has been ordered and because of filing this Civil Revision Petition, the Executing Court could not proceed further. Hence, it is strongly argued by the landlord counsel, the tenant is fully knowing well about the passing of the decree and without even depositing the arrears of rent, he has come forward with the present petition and there is no genuineness in the said petition and the same has to be dismissed.

7.Even before this forum, the tenant has not shown any inclination to deposit the arrear amount and hence, the averment made by the tenant that he has good case in the said R.C.O.P., cannot be considered as fair one. From the records, it is seen that the tenant has not made any attempt to prove his bona fide before the trial Court regarding his non appearance and also his genuineness to deposit the arrear amount.

8.In view of the above, this Civil Revision Petition is dismissed with cost of Rs.500/-. The petitioner herein/tenant is directed to pay a sum of Rs.500/- to the credit of Chief Justice Relief Fund within a period of two weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The Additional District Munsif,
Madurai Town, Madurai.

Copy to : The Section officer, Accounts Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.R.SUBRAMANIAN, Advocate in SR-55335

+1 CC to M/s.S.MUTHALRAJ, Advocate in SR-56403