



BBEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Civil Appellate Jurisdiction )

Monday, the Twenty Fifth day of February Two Thousand Nineteen

PRESENT

**The Hon`ble Mrs.Justice S.RAMATHILAGAM**

**CRP(MD) No.378 of 2019  
and  
CMP(MD) No. 1851 of 2019**

M.ZAKIR HUSSAIN

... PETITIONER/APELLANT/  
RESPONDENT/TENANT

Vs

1 V.R.RAJENDRAN  
2 R.INBAVALLI

... RESPONDENTS/RESPONDENTS/  
PETITIONERS/LANDLORDS

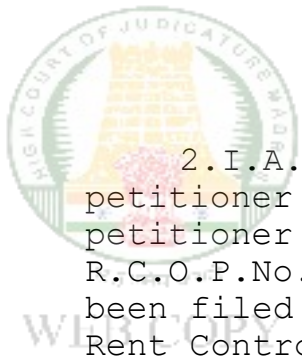
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to set aside the Fair and Decretal order dated 13.03.2017 made in 25.09.2018 made in I.A.No.22 of 2017 in Unnumbered R.C.A.No. of 2017 on the file of the Learned Principal Subordinate Judge, Dindigul in I.A.No.2 of 2015 in RCOP No.14 of 2010 on the file of the Rent Controller (Principal District Munsif Court), Dindigul, by allowing this revision.

**Prayer in CMP(MD). 1851/ 2019 :**

To grant an order of INTERIM STAY, staying all further proceedings pursuant to the order dated 11.08.2016 passed in I.A.No.2 of 2015 in RCOP No.14 of 2010 on the file of the Rent Controller (Principal District Munsif Court), Dindigul, pending disposal of the main CRP(MD)No.378 of 2019.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.J.LAWRANCE, Advocate for the petitioner and of MR.D.SELVARAJ, on behalf of the Respondents (Caveator), the court made the following order:-

This Civil Revision Petition has been filed to set aside the order dated 25.09.2018 passed in I.A.No.22 of 2017 in unnumbered R.C.A.No..... of 2017 on the file of the learned Principal Subordinate Judge, Dindigul in I.A.No.2 of 2015 in R.C.O.P.No.14 of 2010 on the file of the Rent Controller (Principal District Munsif Court), Dindigul.



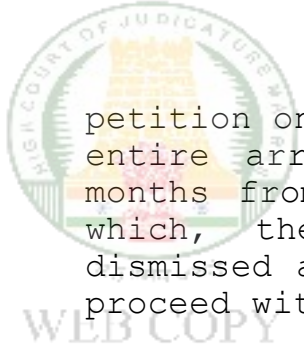
2.I.A.No.22 of 2017 has been preferred by the tenant/the petitioner herein before the Rent Control Appellate Authority. The petitioner contended that the respondent/landlord preferred R.C.O.P.No.14 of 2010 for eviction and I.A.No.2 of 2015 has also been filed for paying the rent and the said I.A., was allowed by the Rent Control Appellate Authority. Aggrieved against the said order, the petitioner herein has preferred the appeal.

3.The grievance of the petitioner is that he was totally deprived by the proceedings of the Court and hence, he could not prefer appeal in time before the Rent Control Appellate Authority. Further, the proceedings were also going before the Rent Controller and the petition is still pending and the Rent Controller did not ask any other details. The fact that the order has been passed as against the petitioner only on 11.08.2016, whereas, he could not obtain the related details from his counsel. The reason for the delay is that the petitioner was ill for nearly 3 months and hence, the delay occurred and the another reason for the delay is that the case records were misplaced from his counsel office and hence, he could not able to file the appeal within a stipulated time.

4.The Rent Control Appellate Authority has analyzed the fact stated by both sides and also perused the details relating to the said R.C.O.P., and has found that the said R.C.O.P., was filed by the respondent/landlord for arrears of rent and on the ground of arrears of rent, an eviction order was sought by the respondent/landlord. It is observed that the said Execution Petition has been preferred based on the decree and obtained by the landlord. The reason for the delay stated by the petitioner is not a genuine one when there is a wilful default committed by the petitioner and he has not deposited the arrears of rent even after the initiation of E.P., proceedings and on receipt of the notice also, the petitioner has not preferred any appeal. Hence, the said petition has been filed only to delay the proceedings of the Court below and depriving the landlord from obtaining the decree of the suit and hence, the appellate Court has dismissed the same stating that there is no genuineness and merits in the said application.

5.Now the petitioner placed the same reason before this Court that the delay occurred neither one nor negligent since he was deprived on the status and now, the petitioner undertakes that he is ready to deposit the entire arrears of rent, in which the Rent Control Appellate Authority directed the petitioner to deposit the arrear amount of Rs.8,05,000/-.

6.Considering the facts and circumstances of the case and in view of the undertaking given by the petitioner, there shall be an order of interim stay of all further proceedings pursuant to the order dated 11.08.2016 passed in I.A.No.2 of 2015 in R.C.O.P.No.14 of 2010 on the file of the Rent Controller (Principal District Munsif Court), Dindigul pending disposal of the main civil revision



petition on condition that the petitioner is directed to deposit the entire arrear amount of Rs.8,05,000/- within a period of three months from the date of receipt of a copy of this order, failing which, the Civil Revision Petition shall stand automatically dismissed and on such deposit, the Rent Control Appellate Authority proceed with same.

7.Post the matter after three months for reporting compliance.

sd/-  
25/02/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

TO

1 THE PRINCIPAL SUBORDINATE JUDGE,  
DINDIGUL

2 THE RENT CONTROLLER,  
PRINCIPAL DISTRICT MUNSIF COURT,  
DINDIGUL

+1. C.C. to Mr.J.LAWRANCE Advocate SR.No.49623

+1. C.C. to Mr.S.SARVAGAN PRAABU, Advocate SR.No.49649

ORDER

IN

CRP(MD) No.378 of 2019 and

CMP(MD) No. 1851 of 2019

Date :25/02/2019

MSI/PN/SAR 1/11.03.2019/3P-5C