



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2019

CORAM:

THE HONOURABLE **MRS. JUSTICE S. RAMATHILAGAM**

C.R.P (PD) (MD) No.554 of 2019

and

C.M.P (MD) No.2746 of 2019

WEB COPY

Rani

... Petitioner/Respondent/
Respondent/Petitioner

Vs.

Guruvammal

... Respondent/Petitioner/
Petitioner/Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed by the learned Subordinate Judge, Virudhunagar in I.A.No.59 of 2018 in R.C.A.No.2 of 2019 dated 05.01.2019.

For Petitioner

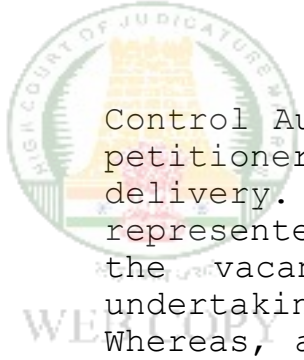
: Mr.S.Kirupavijayanad

ORDER

This Civil Revision Petition has been preferred against the order passed in I.A.No.59 of 2018 in R.C.A.No.2 of 2019 dated 05.01.2019.

2. I.A.No.59 of 2018 was filed by the respondent/tenant, who is the appellant in Rent Control Appeal. The respondent/tenant contended that she preferred an appeal against the order passed by the Rent Controller, Virudhunagar in R.C.O.P.No.1/2015 dated 10.08.2016. After passing of the order in R.C.O.P, the respondent/tenant was instructed her counsel to prefer an appeal in time. Her erstwhile counsel who appeared before the Rent Controller did not inform her about the order copy made ready. In the meantime, she received notice from the Executing Authority in respect of EP proceeding instituted by the petitioner/landlord. She realized that the time for filing the R.C.A is barred, only after receiving the notice from the Court in EP proceedings. The appeal has to be preferred on or before 13.10.2016. Unfortunately a delay of 684 days was occurred in filing the above Rent Control Appeal. The delay in filing the appeal is not wilful or wanton. Due to her last phase of her life, she was not able to realize the situation appropriately. Hence, she prayed one more opportunity has to be given to her to canvass the above appeal on merit before the Appellate Authority.

3.The petitioner/landlord vehemently objected the said contentions made by the respondent/tenant. The petitioner further contended that he has filed R.C.O.P.1/2015 for eviction. After perusing the oral and documentary evidence, the learned Rent



Control Authority has passed an order of eviction. After that, the petitioner/landlord has filed an Execution Proceedings for delivery. The respondent/tenant appeared through counsel and represented before the Court and gave an undertaking to hand over the vacant possession within three months. Based on the undertaking, the trial Court is adjourned the matter periodically. Whereas, after the transferring the concerned Judge who has passed an order of eviction, the respondent/tenant has denied to vacate the property. The petitioner/landlord argued the matter on merits and obtained delivery order before the Execution Court. Even after the same, the respondent/tenant filed R.C.A.No.2 of 2019 along with the petition to condone the delay. The respondent/tenant had not properly explained the each and every day of delay to file the appeal and she failed to comply Section 11 (4) order in I.A.No.5/2016 passed by the Rent Controller. The respondent/tenant has to pay the rent from 01.11.2012 to 31.01.2016. Whereas, she has not paid the rent even in the course of eviction proceedings as on date. The respondent/tenant has obtained an adjournment in the Lower Court by mentioning that R.C.A is pending before the Rent Appellate Tribunal and she filed I.A.No.59 of 2018 to condone the delay of 684 days in preferring the appeal.

4.The learned counsel for the petitioner herein would contend that the respondent has not stated any genuine reason for huge delay in filing the appeal. The contentions of the respondent in filing the appeal only with an intention to drag on the proceedings. Hence, there is no merit in that application and that has to be dismissed. Further, it is contended that the tenant has not complied the order passed in I.A.No.5/2016 by the Rent Control Appellate Authority. After observing the contentions made by both side and also the earlier order passed by the Rent Controller, the learned Rent Control Appellate Authority has allowed the said I.A., on condition that the respondent/tenant has to deposit a sum of Rs.75,000/- within a Month. But the respondent/tenant has not complied with the conditional order passed by the Appellate Authority. Hence, the landlord has preferred this Civil Revision Petition.

5. The learned counsel for the landlord has stated that the order passed in R.C.O.P was one on merit and the tenant has stated that she was ready to hand over the vacant possession within recent time. But after transferring the learned Judge, she has contested the case.

6. On perusal of records, it is observed that there is a huge arrears of rent to the tune of Rs.1,11,000/- and that the amount will be paid only after enquiry in the appeal. Considering the contentions raised by the petitioner herein that the respondent/tenant has her own house in the same area, there is no merit in filing the R.C.A with such a huge delay and the land lord is very much shown that she needs the house for her daughter.



7. In view of the above said observation, this Civil Revision Petition is allowed and the order passed by the Appellate Authority is modified with the condition that the respondent has to deposit a sum of Rs.1,00,000/- amount within a period of two weeks from the date of receipt of copy of this order.

8. Since, the respondent already deposited a sum of Rs.75,000/-, remaining amount of Rs.25,000/- should be deposited within a period of two weeks from the date of receipt of a copy of this order and this Court directs the Rent Control Authority to proceed and dispose the R.C.A.No.2 of 2019 within a period of one month from the date of receipt of a copy of this order.

9. With the above direction, this Criminal Original Petition is allowed. Consequently connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

dss

To

1. The sub-court,
Sivagangai.

+1CC TO MR.D.RAMESH KUMAR, Advocate Sr. No. 55232

C.R.P (PD) (MD) No.554 of 2019
and
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NSN(CO)

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