

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. 786 of 2020

and

C.M.P. 4295 of 2020

M/s.Eagle Flask Industries Limited,
rep. by its Executive Director
Mrs.Shamin M.Padamsee ... Petitioner

Versus

M/s.Tamil Nadu Small Industries
Corporation Ltd. (TANSI),
rep. by its Chairman
and Managing Director ... Respondent
Thiru Vika Industrial Estate
Guindy, Chennai 32.

PRAYER : Civil Revision Petition is filed under Sec.25 of Tamil Nadu Buildings (Lease and Rent Control) Act, praying to set aside the order and decree of learned VII Small Causes Court Judge, Chennai (Appellate Authority), dated 20.11.2019 in M.P. 655 of 2018 in M.P. 663 of 2012 in R.C.A. 652 of 2004.

For Petitioner : Mr.Akbar Ali Dhala

For Respondent : Mr.P.Sanjai Gandhi
Standing Counsel for TANSI

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O R D E R

This Civil Revision Petition has been filed against the order condoning the delay of 1600 days in filing the petition to condone the delay in filing the application to restore the appeal, which was dismissed for default.

2. The petitioner is the landlord. He has filed a petition for eviction on the ground of owner's occupation in R.C.O.P. 1453 of 1999, and the learned Rent Controller dismissed the R.C.O.P. Challenging the same, the respondent has filed an appeal in R.C.A. 652 of 2004, that appeal has been dismissed for default. To restore the above appeal, the respondent/tenant has filed an application with the delay of 480 days in M.P. 663 of 2012, and that application was also came to be dismissed for default by an order dated 13.03.2014. To restore the above application, the present application has been filed with the delay of 1600 days in M.P. 655 of 2018, and that application came to be allowed by the appellate authority on payment of cost of Rs.2000/-. Challenging the same, the petitioner has filed the present Civil Revision Petition.

3. I have considered the rival submissions made by learned counsel appearing for petitioner as well as learned standing counsel for respondent and perused the records carefully.

4. It is true that, the respondent is very lethargic in prosecuting the appeal, the respondent cannot put entire blame on the panel counsel stating that he has failed to inform the same to the respondent. It is not the first time, the delay occurs. As rightly contended by learned counsel appearing for petitioner that, the appeal has been dismissed for default, and there is a delay in restoring the appeal. Even that application was also came to be dismissed for default, once again, there is a huge delay in restoring the appeal.

5. However, considering the fact that, only because of panel counsel failed to inform the same to the respondent, there was a delay, the Court below after considering the entire materials available on record, has exercised its discretion, allowed the application on payment of cost of Rs.2000/-. I have also gone through the materials, the lower court has exercised its discretion and condoned the delay. In order to give an opportunity to the respondent to contest the appeal on merits, I am not inclined to interfere with the order passed by the court below. Accordingly, this Civil Revision Petition stands dismissed. However, considering the huge delay, the respondent is directed to pay a further cost of Rs.5000/- payable to Cancer Institute, Adayar, Chennai on or before 16.03.2020. If the respondent fails to pay the cost, this Civil Revision Petition shall stand automatically allowed.

6. Now, it is stated that, in pursuant to the order passed by the court below, the respondent has deposited a sum of Rs.2000/-, but that amount was not withdrawn by the petitioner

tenant. In the above circumstances, the amount of Rs.2000/- deposited by the respondent before the court below is also directed to be paid to Cancer Institute, Adyar, Chennai. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Judge, VII Small Causes Court, Chennai.

2.The Cancer Institute, Adayar, Chennai.

+2ccs to Mr.Akbar Ali Dhala , Advocate SR.No. 16678

+1cc to Mr.P.Sanjai gandhi , Advocate SR.No. 16989

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A.SK(20/03/2020)



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