

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2020

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

**C.R.P(NPD)No.1194 of 2020
and C.M.P.No.6453 of 2020**

1.Mrs.Malarvizhi
2.Mrs.Pavai
3.Mrs.Thamizharasi
4.Mrs.Thenmozhi
5.Mrs.Kalyani
6.Mr.Mohan

...Petitioners

Versus

1.Mrs.Selvam Ammal
2.Mr.Sundaram Muthaliar

...Respondents

This Civil Revision Petition is filed under Section 25(1) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 praying to set aside the fair and decreetal order passed in R.C.A.No.1 of 2018 dated 07.02.2020 on the file of the Rent Controller Appellate Authority, Vellore (Subordinate Court, Vellore) confirming the fair and final order passed in R.C.O.P.No.33 of 2009 on the file of the Court of Rent Controller/Principal District Munsif, Vellore dated 17.11.2017.

For Petitioners : Mr.K.Mohanamuarali

For Respondent - 1 : Mr.M.Praveen Kumar

ORDER

The relief sought for in the present Civil Revision Petition is to set aside the order dated 07.02.2020 passed by the learned Rent Controller Appellate Authority, Vellore (Subordinate Court, Vellore) in R.C.A.No.1 of 2018, in and by which, the learned Rent Control Appellate Authority had confirmed the order dated 17.11.2017 passed by the learned Rent Controller/Principal District Munsif, Vellore in R.C.O.P.No.33 of 2009.

2. The brief facts of the case are as follows:

The first respondent had filed a Rent Control Original Petition in R.C.O.P.No.33 of 2009 against the petitioners and second respondent. The learned Rent Controller, Vellore vide order dated 17.11.2017, directed the petitioners and second respondent herein to vacate and handover the petition building and put the first respondent into the possession of the petition building within 15 days from the date of order and the petitioners and second respondent herein are liable to pay Rs.1,00,000/- as realistic costs to the first respondent herein. Against the said order, the petitioners had filed a Rent Control Appeal in R.C.A.No.1 of 2018 against the

respondents.

2.1 While the said Rent Control Appeal is pending on the file of the Subordinate Court, Vellore, the petitioners preferred an Interlocutory Application in I.A.No.1 of 2018 for staying all the further proceedings in the order passed in R.C.O.P.No.33 of 2009 dated 17.11.2017, however, the said Application was dismissed vide order dated 16.07.2018. Aggrieved by the order of dismissal, the petitioners filed a Civil Revision Petition in C.R.P.No.2469 of 2018 before this Court and this Court vide order dated 21.01.2020 disposed of the said Civil Revision Petition by directing the learned Subordinate Judge, Vellore to dispose of R.C.A.No.1 of 2018 within a period of three weeks.

2.2 Thereafter, when R.C.A.No.1 of 2018 was listed for hearing on 31.10.2020, a Memo was filed before the Appellate Court to the extent that C.R.P.No.2469 of 2018 was disposed of by this Court dated 21.01.2020. The said Memo was recorded and the parties were directed to appear before the Court on 05.02.2020 and produce the order copy of C.R.P.No.2469 of

2018. Accordingly, when the matter was taken up on 05.02.2020, the petitioners were absent and therefore, the matter was adjourned to 07.02.2020 for the appearance of the petitioners herein. Thereafter, when the matter was taken up on 07.02.2020, the learned Rent Controller Appellate Authority has dismissed R.C.A.No.1 of 2018 by stating as follows:

"R1 present. Appellants 1, 4 and 8 present. Appellants 2, 3 and 5 absent. No representation on the side of appellant. Conditional order of this Court not complied. This appeal is pending from the year 2018. No progress in this case. In spite of the direction given by the Hon'ble High Court, Madras in C.R.P.No.2469 of 2018 dated 21.01.2020, the appellants are not ready to submit argument. The conduct of the appellant show that they are not interested to contest this case. Hence, this appeal is dismissed."

3. Heard the learned counsel on both sides and perused the materials available on record.

4. Considering the fact that the order copy of C.R.P.No.2469 of 2018 is not yet made ready, this Court is of the opinion that it would be appropriate to set aside the order dated 07.02.2020 passed in R.C.A.No.1 of

2018 and direct the Appellate Court to grant an opportunity to the petitioners to contest R.C.A.No.1 of 2018 on merits.

5. Accordingly, this Civil Revision Petition is allowed and the order dated 07.02.2020 passed by the learned Rent Controller Appellate Authority, Vellore (Subordinate Court, Vellore) in R.C.A.No.1 of 2018 is set aside. The parties are directed to produce the order copy of C.R.P.No.2469 of 2018 before the Appellate Court as expeditiously as possible. On receipt of such order copy, the learned Rent Controller Appellate Authority, Vellore (Subordinate Court, Vellore) is directed to grant an opportunity to the petitioners to contest their case and dispose of R.C.A.No.1 of 2018 within the time frame fixed by this Court as per order dated 21.01.2020 passed in C.R.P.No.2469 of 2018. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No

18.03.2020

D.KRISHNAKUMAR, J.,

mrr

To

The Rent Controller Appellate Authority,
Subordinate Court, Vellore.



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