

RESERVED ON : 05.02.2020
PRONOUNCED ON : 28.02.2020

CMP.Nos.4170, 4171 & 4172 of 2016
in
CRP(NPD).No.2415 of 2008

RMT.TEEKAA RAMAN., J.

CMP.No.4170 of 2016 has been filed by the revision petitioner to condone the delay of 2310 days in filing the petition to set aside the abatement caused due to the death of the sole respondent viz., G.Balaraman, in CRP(NPD).No.2415 of 2008. CMP.No.4171 of 2016 has been filed by the revision petitioner to set aside the abatement caused due to the death of the sole respondent in the CRP viz., CRP(NPD).No.2415 of 2008. CMP.No.4172 of 2016 has been filed by the revision petitioner to bring on record the legal representatives of the deceased G.Balaraman, who was died on 19.05.2009.

2 CRP(NPD).No.2415 of 2008 has been filed against the order passed by the learned VIII Judge, Small Causes Court, Chennai in M.P.No.252 of 2007 in RCA.No.1088 of 2013, for setting aside the ex-parte dismissal order dated 12.03.2007.

3 The respondent herein has filed a Rent Control Original

Petition in RCOP.No.1898 of 2003, under Section 10(2)(i) and 10(2)(vii) of Tamilnadu Buildings (Lease and Rent Control) Act for eviction and eviction was ordered on 28.08.2003. As against the same, the petitioner herein has preferred RCA before the learned Rent Control Appellate Authority and obtained stay in the order made by the Rent Controller in RCOP.No.1898 of 2003 and the above said appeal was dismissed for default on 12.03.2007. Immediately, petitioner herein has filed restoration application on 16.03.2007 before the learned Appellate Authority, and the said application was dismissed on 15.07.2007. As against the same, petitioner herein has preferred CRP.No.2415 of 2008 before this court. During the pendency of the petition, the sole respondent/landlord died.

4 The learned counsel for the petitioner has issued a letter on 23.12.2011 to the learned counsel appeared for the landlord/respondent to furnish the details of the legal heirs of the deceased respondent and their address

5 When the Civil Revision Petition was listed on 11.02.2003, the learned counsel for the respondent has filed a memo before the Court after serving the copy and the said CRP was

dismissed for non prosecution on 18.02.2013.

6 The landlord has originally filed an Execution Petition in E.P.No.163 of 2008 and the same was closed, since CRP was pending. Subsequently, legal heirs of the landlord have filed an Execution Petition in EP.No.291 of 2015, when the notice was received, the petitioner has come to know about the dismissal of the CRP and hence, he has filed a petition for restoration of the CRP with a delay of 1059 days.

7 By an order dated 24.07.2018, this Court has condoned the delay of 1059 days in filing the restoration petition seeking to restore the CRP.No.2415 of 2008 and subsequently, restoration petition in CMP.No.14579 of 2018 was allowed and CRP was restored to file.

8 Based upon the memo filed by the respondents counsel, the revision petitioner has filed CMP.Nos.4170, 4171 & 4172 of 2016. The learned counsel for the petitioner submitted that the delay is *bona fide*. The counsel for the respondent/landlord would contend that the condone delay petition has been deliberately allowed to be dismissed and hence, the RCA dismissed and have

filed CRP.

9 During the pendency of CRP, he was not diligent enough to prosecute the CRP. Though, the learned counsel for the respondent has issued the legal heir details, he has not taken any steps and the said CRP was dismissed. Thereafter, the petitioner herein has filed an application for restoration of CRP with a delay of more than thousand days and the delay was condoned and CRP was restored. Now, the petitioner herein has filed CMP with much long delay to bring the legal representatives of the landlord and hence, strongly opposed for the grant of the relief.

10 Heard both sides and perused the materials placed on record.

11 Be that as it may, since CRP has already been restored to file after condoning the delay of 1059 days, now in this LR application he wanted to bring the legal representatives of the deceased respondent/landlord. The learned counsel for the respondent has already filed a memo regarding the date of death but he was not diligent enough to take steps immediately and hence, in the interest of justice, CMPs are allowed.

12 However, CMP.No.4170 of 2016 is allowed on payment of Rs.4,000/- to the learned counsel for the respondent by the petitioner/tenant. Consequently CMPs.Nos.4171 & 4172 of 2016 are also allowed.

13 Time for payment two weeks from the date of receipt of a copy of this order, failing which, all the CMPs shall stand dismissed without any reference to this Court.

dua

28.02.2020

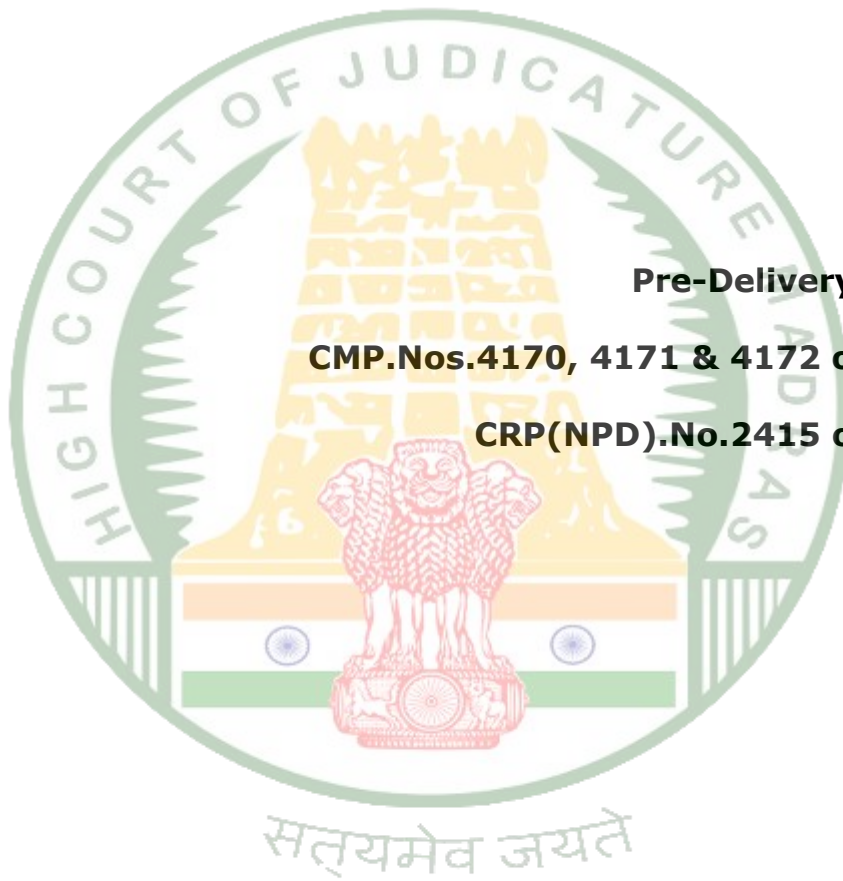


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RMT.TEEKAA RAMAN., J

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**Pre-Delivery Order
in
CMP.Nos.4170, 4171 & 4172 of 2016
in
CRP(NPD).No.2415 of 2008**

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