

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[ORDERS RESERVED ON : 06.11.2020]

[ORDERS PRONOUNCED ON : 30.11.2020]

CORAM:

THE HONOURABLE MR. JUSTICE **RMT.TEEKAA RAMAN**

C.R.P.[PD] No.1969 of 2020

and

C.M.P.No.12237 of 2020

S.R.Jayadurai

... Petitioner

... Vs ...

1. J.Jayanthi

2. Jayakumar

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 13.12.2019 passed in M.P.No.19 of 2015 in R.C.O.P.No.14 of 2012 on the file of the learned Principal District Munsif, Alandur.

For Petitioner : Mr.T.Thiyagarajan

ORDER

The tenant is the revision petitioner herein. This Civil Revision Petition is filed against the order passed by the learned Principal District Munsif, Alandur, in M.P.No.19 of 2015 in R.C.O.P.No.14 of 2012, dated 13.12.2019. M.P.No.19 of 2015 was filed by the tenant seeking to condone the delay of 919 days in filing the application to set aside the ex-parte order passed against the petitioner in R.C.O.P.No.14 of 2012.

2. The first respondent herein is the landlord. She has filed a petition in R.C.O.P.No.14 of 2012 before the trial Court for fixation of fair rent to the petition premises. It appears that the said R.C.O.P. was decreed ex-parte on 07.02.2012. Thereafter, the first respondent herein/landlord and her husband have filed a petition in R.C.O.P.No.67 of 2014 for eviction.

3. At this juncture, the tenant has filed a petition in M.P.No.19 of 2015 seeking to condone the delay of 919 days in filing the application to set aside the ex-parte order passed in R.C.O.P.No.14 of 2012 on the ground that he came to know about the filing of the earlier

R.C.O.P. and the Ex-parte decree only on receipt of the copy of the petition in the subsequent R.C.O.P. The said petition was dismissed by the trial Court and hence, the present Civil Revision Petition has been filed before this Court.

4. Heard the learned counsel for the petitioner.

5. Before the Trial Court, the revision petitioner herein/tenant has filed a petition in M.P.No.19 of 2015 to condone the delay of 919 days in filing the application to set aside the ex-parte order made in R.C.O.P.No.14 of 2012, which was filed by the landlord for fixation of fair rent. The sole ground raised by the tenant is that he came to know about the ex-parte order passed in R.C.O.P.No.14 of 2012 only on receipt of the copy of the petition in R.C.O.P.No.67 of 2014.

6. Per contra, in the counter affidavit filed before the Rent Controller, the first respondent herein/landlord has categorically stated that the service of notice was held to be sufficient. The legal notice dated 22.05.2013 was duly served calling upon the tenant to pay the fair rent as

fixed in the R.C.O.P.No.14 of 2012. Since there is no sufficient cause for condoning the inordinate delay of 919 days, the learned Principal District Munsif, Alandur, had dismissed the petition filed for condoning the delay.

7. Learned counsel for the petitioner would contend that the R.C.O.P.No.14 of 2012 was ordered in a rationable way and the same is liable to be set aside. During the enquiry, the respondents/landlords filed Exs.R.1, R.2 and R.3. Ex.R.1 is the legal notice dated 22.05.2013 issued by the counsel for the landlord to the tenant calling upon him to pay the fair rent as fixed in the R.C.O.P.No.14 of 2012. It was duly acknowledged by the tenant and further, a copy of the petition is also served on him. There is absolutely no whisper about the document Ex.R.1 and receipt of Ex.R.1-legal notice under Ex.R.2-acknowledgement. The only reason assigned by the revision petitioner/tenant is that he came to know about the ex-parte order passed in R.C.O.P.No.14 of 2012 only on receipt of the copy of the petition in the subsequent R.C.O.P.No.67 of 2014.

8. It remains to be stated that except such averment, there is no other averment made in the petition. Admittedly, Ex.R.1-legal notice dated 22.05.2013 was duly served on the tenant as could be seen from the acknowledgement card under Ex.R.2. When the revision petitioner/tenant had the knowledge as early as in the year 2014, the affidavit filed by the petitioner/tenant as if he came to know about the ex-parte order passed in the fair rent petition in R.C.O.P.No.14 of 2012 appears to be suppression of material facts. Except the said fact, no other grounds have been alleged.

9. In view of the fact that the revision petitioner/tenant had the knowledge about the disposal of the R.C.O.P.No.14 of 2012 and in the absence of any explanation for the inordinate delay, this Court finds that the petitioner has not made out sufficient cause for condoning the inordinate delay and hence, the order of dismissal passed by the Trial Court does not warrant any interference by this Court and hence, the Civil Revision Petition is liable to be dismissed.

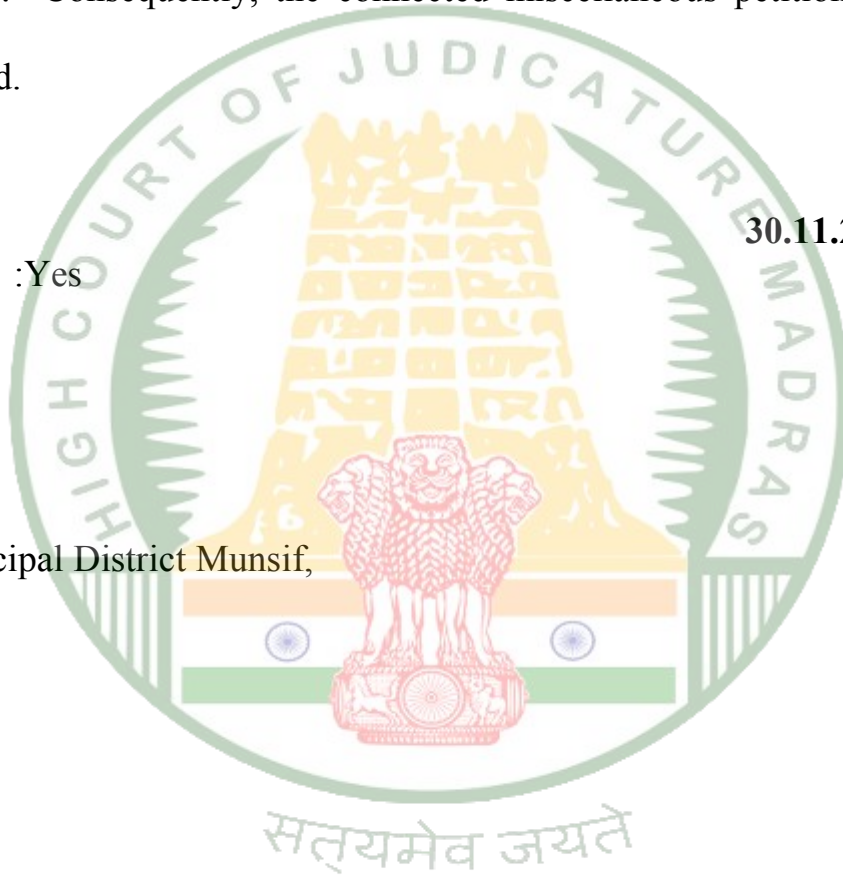
10. In the result, the Civil Revision Petition is dismissed and the order dated 13.12.2019 passed by the learned Principal District Munsif, Alandur, in M.P.No.19 of 2015 in R.C.O.P.No.14 of 2012, is confirmed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

30.11.2020

Internet :Yes
Jrl

To

The Principal District Munsif,
Alandur.

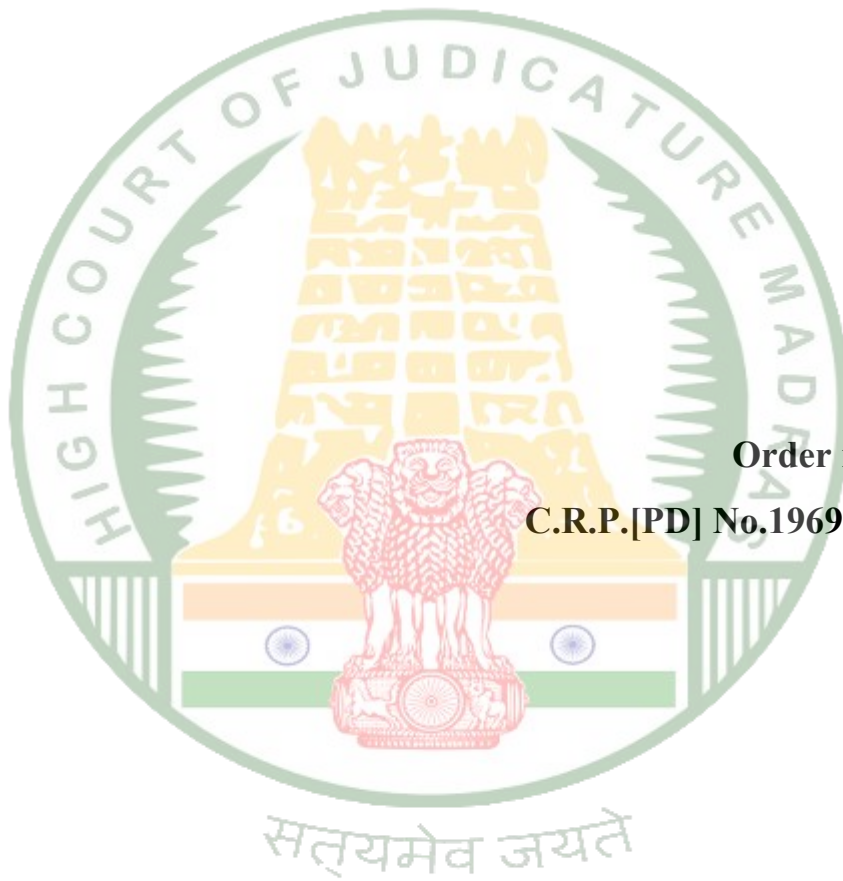


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RMT.TEEKAA RAMAN, J.

Jrl



**Order made in
C.R.P.[PD] No.1969 of 2020**

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