

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :15.12.2020

Pronounced on : .12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P.(P.D).No.3048 of 2019

R.M.SubramaniamPetitioner

Vs

A.R.AnushulaRespondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order dated 01.04.2019, passed in M.P.No.745 of 2018 in R.C.A.Sr.No.33640 of 2018 on the file of the VII Judge, Court of Small Causes, Chennai.

For Petitioner : Ms.R.V.Gayatri

For Respondent : Mr.K.F.Manavalan

ORDER

This Petition has been filed to set aside the order and decretal order dated 01.04.2019, passed in M.P.No.745 of 2018 in R.C.A.Sr.No.33640 of 2018 on the file of the VII Judge, Court of Small Causes, Chennai.

2.The respondent herein has filed the RCOP No.94 of 2015, on the file of the Rent Controller and Presidency Small Causes Court, for the relief of fixing the fair rent.

3.After due scrutiny of the arguments and documents, the Rent Controller fixed the monthly fair rent of Rs.90,023/- by order dated 21.02.2018 in RCOP No.94 of 2015.

4.Aggrieved against the order of the Rent Controller, the petitioner herein has preferred the appeal before the learned VII Judge, Court of Small Causes, Chennai, with a delay of 37 days. The learned Judge, dismissed the condone delay petition, since the reason furnished by the petitioner is not sufficient to condone the delay.

5.Against the order of the learned VII Judge, Court of Small

Causes, Chennai, in M.P.No.745 of 2018 in R.C.A.Sr.No.33640 of 2018, the petitioner has preferred the present Civil Revision Petition.

6.The learned counsel for the petitioner submitted that the petitioner is tenant and the respondent herein has filed the petition to fix fair rent in RCOP No.94 of 2015, in which the Rent Controller fixed fair rent of Rs.90,023/- from the date of 12.12.2014 by order dated 21.02.2018. Aggrieved by this order, the petitioner herein/tenant filed an appeal with a delay of 37 days. The appellate authority dismissed the petition of condone delay, on the ground that delay has not been properly explained by the petitioner. The trial Court failed to consider the fact that after obtaining the copies of the order, summer vacation has started for the Courts. After summer vacation, immediately the petitioner has preferred the appeal, with a delay of 37 days. Hence, a chance has to be given to the petitioner herein to place his case before the 1st appellate authority. The trial Court order made in M.P.No.745 of 2018 in R.C.A.Sr.No.33640 of 2018 dated 01.04.2019 is unjust and it is preventing the parties to place their case before the appropriate forum and reiterated the other grounds raised in the revision petition and thus pleaded to set aside the order of the appellate authority by

allowing the Civil Revision Petition.

7.The learned counsel for the respondent submitted that there is a delay of 130 days has been occurred for filing the appeal before the appellate authority and it is not at all 37 days delay in filing the appeal as stated by the petitioner herein. Apart from that the petitioner/tenant has not paid the fair rent fixed by the Rent Controller and pleaded to direct the tenant to deposit the fair rent fixed by the Rent Controller by order dated 01.04.2019 in M.P.No.745 of 2018 in R.C.A.Sr.No.33640 of 2018. He further supported the order of the appellate authority and pleaded to dismiss the revision petition.

8.Heard both sides and perused the materials available on record.

9.Petitioner is the tenant. Respondent herein is the landlord. The respondent/landlord filed R.C.A.Sr.No.33640 of 2018 for fixation of fair rent before the Rent Controller and Presidency Small Causes Court at Chennai. The trial Court, after conducting elaborate trial, fixed the monthly fair rent of Rs.90,023/- with effect from 12.12.2014, by order dated 21.02.2018. After that the petitioner herein has applied for copy application of the order and he obtained the same on 24.04.2018. Meanwhile, summer

vacation holidays was intervened for the Courts and hence there was a delay of 37 days in filing the appeal has occurred. After reopening, the petitioner filed the appeal with a delay of 37 days and the trial Court dismissed the same on the ground that the reason for the delay is not sufficient. Sufficient cause in each case is a question of fact. It should be interpreted liberally. In this case, the trial Court/Rent Controller fixed the monthly fair rent of Rs.90,023/-. In order to give a chance to the parties to approach the 1st appellate authority, to place their grievances, the petitioner herein deserves one more opportunity. Further it is true that the parties must approach the Court with reasonably cause. Sufficient cause is a question of fact and the Court should exercise its discretion. There cannot be a straight jacket formula for universal application. When the reason is not frivolous, it should be accepted. Therefore, I am inclined to allow the revision petition on a condition of payment of 50 % of the monthly fair rent fixed by the trial Court/Rent Controller, payable by the petitioner herein to the respondent by way of Demand Draft.

10. Accordingly, the order dated 01.04.2019, passed in

M.P.No.745 of 2018 in R.C.A.Sr.No.33640 of 2018 on the file of the VII Judge, Court of Small Causes, Chennai, is hereby set aside and the Civil Revision Petition is allowed on condition that the petitioner herein should pay the 50% of the monthly fair rent fixed by the Rent Controller, to the respondent, till the disposal of the appeal. Further, the arrears of 50% monthly fair rent has to be paid to the respondent herein within a period of three months from the date of receipt of a copy of this order.

.12.2020

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To
The VII Judge, Court of Small Causes, Chennai.

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V.SIVAGNANAM.J,



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