

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2020

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

CMP.No.27009 of 2019

in

CRP(NPD) No.SR.154659 of 2019

M.Ravi

..Petitioner

Vs

1.V.Duraisamy

2.T.Muthammal

.. Respondents

Prayer in CMP.No.27009 of 2019: Civil Miscellaneous Petition is filed to condone the delay of 224 days in filing the above said Civil Revision Petition.

Prayer in CRP(NPD) No.SR.154659 of 2019 : This Civil Revision Petition is filed to set aside the order passed by the I Additional District Munsif, Erode in EPR.No.53 of 2016 in RCOP.No.2 of 2008 on 24.01.2019 an to allow this Civil Revision Petition.

For Petitioner : M/s.S.Vijayanand

For Respondents : Ms.Zeenath Begum

ORDER

The relief sought for by the petitioner is to condone the delay of 224 days in filing the above said Civil Revision Petition and to to set aside the order passed by the I Additional District Munsif, Erode in EPR.No.53 of 2016 in RCOP.No.2 of 2008 on 24.01.2019

2. The respondents/landlord filed RCOP. No. 2 of 2008 before the I Additional District Munsif, Erode for eviction on the ground of default of rent . The petitioner was allowed infavour of the respondents. Aggrieved by the said order, the petitioner herein/tenant has filed RCA.No. 11 of 2016 before the Principal Subordinate Judge, Erode and the same is pending. In the meantime, the respondents had filed the E.P.R.No. 53 of 2016 in RCOP.No. 2/2008 before the trial Court for delivery of possession of Scheduled of Property and the same was ordered in favour of the respondents on the ground that the petitioner has not obtained any stay in the RCA.No.11 of 2016. Aggrieved against the same, the present CRP is preferred along with the application to condone the delay of 226 days in preferring the CRP.

3. The learned counsel for the petitioners submitted that immediately after knowing the order of delivery of possession, the petitioner has approached his counsel to file CRP under Article 227 of Constitution of India and the same was returned by the Registry as not maintainable and thereafter filed the CRP under Section 115 of CPC, hence there is a delay of 224 days in filing CRP.

4. The learned counsel appearing for the respondents argued before this Court that the petitioner has appeared in the execution proceedings and thereafter,

the execution petition was ordered by the Court below. Subsequent to the aforesaid order, the respondents have taken delivery of possession of the property. The learned Counsel for the respondents further submitted that the RCA preferred by the petitioner is still pending before the lower Appellate Court and he can very well establish his case before the lower Appellate Court, if he has any valid grounds.

5. Heard the learned counsel appearing for the petitioner. No representation for the respondents, perused the documents available on record.

6. On a perusal of records, admittedly, the respondents have filed E.P.R.No. 53 of 2016 in RCOP.No.2 of 2008 on 24.01.2009 before the execution Court and the delivery of possession of the demised property was ordered on 27.02.2019 and thereafter, possession was taken by the respondents on 28.02.20219.

7. Considering the facts and circumstances of the case and on perusal of the affidavit filed by the revision petitioner, it is seen that the revision petitioner has not stated any valid or satisfactory reason for the delay of 224 days occurred in filing the present Civil Revision Petition after taking delivery of possession by the

respondent on 28.02.2019. Further, no sufficient documents were filed to substantiate the reasons, which prevented the petitioner in filing the present CRP. Therefore, in the absence of any satisfactory reasons in the affidavit as well as any materials placed before this Court, I am not inclined to condone the delay of 224 days in filing the present Civil Revision Petition.

8. In view of the above, the Civil Miscellaneous Petition is dismissed. No costs. Consequently, the Civil Revision Petition is rejected at the SR stage itself. Considering the request made by the learned counsel appearing for the respondents, the Principal Subordinate Judge, Erode is directed to complete the proceedings and dispose the RCA.No. 11 of 2016 within a period of three months from the date of receipt of a copy of this order.

03.03.2020

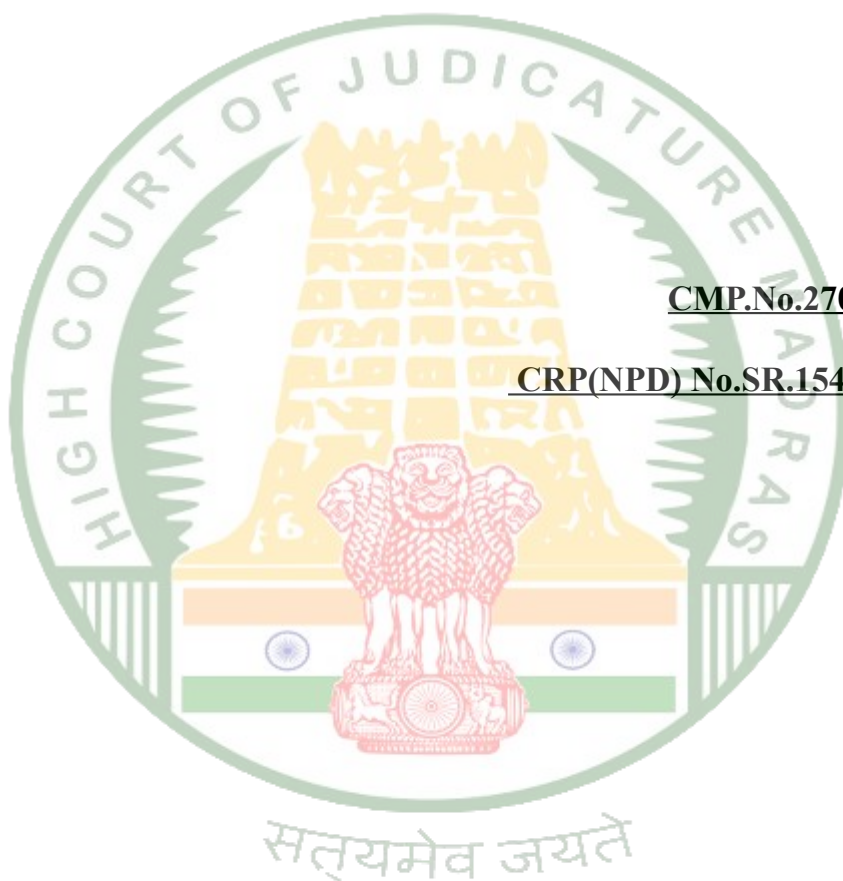
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To
The Principal Subordinate Judge,
Erode

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D. KRISHNAKUMAR, J

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