

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(NPD).Nos.3217 & 3218 of 2018

1. Mr.Khalid Ahmed
2. Mrs.Ayesha Siddiqa @ Anjum

... Petitioners in both Civil Revision Petitions

-Vs-

Mr.Syed Sardar

... Respondent in both Civil Revision Petitions

Common Prayer : Petitions filed under Article 227 of the Constitution of India, to set aside the orders passed in I.A.Nos.11 & 12 of 2018 in I.A.Nos.48 & 49 of 2016 in R.C.O.P.Nos.3 & 4 of 2016 dated 25.07.2018 on the file of the Court of District Munsif at Vaniyambadi, Vellore District.

For Petitioners : Mr.K.Mohanamurali
For Respondent : Mr.T.M.Hariharan

COMMON ORDER

Both these Civil Revision Petitions have been filed against the orders of the Rent Controller dismissing the application for condonation of delay in seeking to restore I.A.No.48 of 2016 in R.C.O.P.No.3 of 2016 and I.A.No.49 of 2016 in R.C.O.P.No.4 of 2016, which were dismissed for default.

2. The Rent Control Original Petitions in R.C.O.P.Nos.3 & 4 of 2016 were filed for eviction and fixation of fair rent. They were dismissed for default. I.A.Nos.48 & 49 of 2016 were filed for restoration of those Rent Control Original Petitions. Those I.A.Nos.48 & 49 of 2016 were also dismissed for default. Thereafter, the petitioners/landlords filed I.A.Nos.11 & 12 of 2018, seeking to condone the delay of 398 days in filing the application to restore the applications in I.A.Nos. 48 & 49 of 2016. I.A.Nos. 11 & 12 of 2018 have been dismissed on merits and the said orders are challenged in these Revision Petitions.

3. Heard Mr.Mohana Murali, learned counsel for the petitioners, who

would contend that since the Rent Controller had gone into the merits of R.C.O.P., while deciding the application for condonation of delay, he has come up with this Civil Revision Petitions invoking supervisory jurisdiction of this Court under Article 226 of the constitution of India.

4. I do not think that these Revisions can be entertained by this Court exercising the power under Article 227 of the Constitution of India, particularly when an appeal would lie under Section 23 of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960. The claim of the learned counsel for the petitioner that the Rent Controller had dealt with and pronounced upon the merits of the R.C.O.P.S, while dealing with the condone delay petitions, cannot be a ground for him to by pass the appellate remedy available under the statute and approach this Court under Article 227. It is fundamental principle of law that constitutional remedy cannot be availed when an efficacious statutory remedy is available that too in the form of an appeal.

5. Hence, these two Civil Revision Petitions are dismissed with

liberty to the petitioners to file an appeal against the orders impugned in these civil revision petitions along with an application for condonation of delay. The Appellate Authority will take into account the period of pendency of the civil revision petitions, when considering the matter on the question of condonation of delay. It is made clear that it will be open to the respondent tenant to urge all grounds available to him before the Appellate Authority.

06.08.2020

kmm

Index: Yes / No
Speaking order / Non speaking order

To
The District Munsif,
Vaniyambadi,
Vellore District.

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R.SUBRAMANIAN, J.

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