



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 08.01.2020

Delivered On : 06.02.2020

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P.(MD)No.2391 of 2019

M.A.Anand .. Petitioner / Petitioner /
Respondent / Tenant

Vs.

P.T.Ramkrishnan .. Respondent / Respondent /
Respondent / Landlord

Prayer: This Civil revision petition is filed under Section 115 of Civil Procedure Code, to set aside the order dated 10.12.2019 passed in I.A.No.207 of 2019 in R.C.A.No.unnumbered of 2019 by the learned Principal Sub Court, Madurai.

For Petitioner : Mr.R.Ramasamy
For Respondent : Mr.T.R.Subramanian

ORDER

Heard learned counsel appearing on either side.

2.This Civil Revision Petition has been filed against the order passed in I.A.No.207 of 2019 in an unnumbered R.C.A., dated 10.12.2019, filed before the learned Principal Sub Judge, Madurai.

3.The petitioner herein is the tenant and the respondent herein is the landlord. The respondent herein has filed a petition for fixation of fair rent in R.C.O.P.No.79 of 2014 and obtained an exparte decree. Since the petitioner herein has not deposited the rent, the respondent herein has filed a petition in R.C.O.P.No.89 of 2016 for eviction. The petition was allowed by the Additional Rent Controller Court, Madurai. Thereafter, the petitioner herein has



filed a Rent Control Appeal, which was unnumbered. The petitioner filed I.A.No.207 of 2019 to condone the delay of 170 days in preferring the Rent Control Appeal.

4.The brief substance of the application in I.A.No.207 of 2019 is as follows:

The petitioner was the respondent in R.C.O.P. Petition. The petitioner was a lawful tenant since 2010, for a monthly rent of Rs.4,650/- (Rupees Four Thousand Six Hundred and Fifty only). The respondent has filed a petition for fixation of fair rent in R.C.O.P.No.79 of 2014 and obtained an exparte decree. The landlord again filed a petition in R.C.O.P.No.89 of 2016 for eviction and the same was allowed, as the petitioner had not deposited the arrears of rent. The landlord preferred an execution petition and an order was passed on 17.07.2018. The petitioner suffered from jaundice and he could not contact the counsel to file an appeal in time. Hence, there was a delay of 129 days in preferring the appeal.

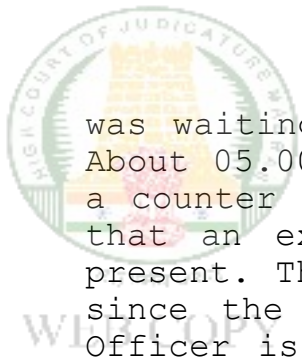
5.The brief substance of the counter in I.A.No.207 of 2019 is as follows:

The respondent is the petitioner in R.C.O.P.No.89 of 2016. The respondent filed a petition in R.C.O.P.No.79 of 2014 for fixation of fair rent and the rent was fixed as Rs.37,599/- (Rupees Thirty Seven Thousand Five Hundred and Ninety Nine only) per month. The petitioner filed a petition to set aside the order with a delay condone petition and the same was dismissed for default and he filed a petition to restore the same and the same is still pending.

The petitioner has not stated when he was affected by jaundice, how long he was under treatment and the nature of treatment in the petition and no medical evidence was filed to prove the illness. The number of days calculated for delay is wrong, there is no reason to condone the delay.

6.The trial Court after considering both side, dismissed the application. Against which, the petitioner has come forward with this revision petition.

7.On the side of the petitioner, it is sated that the execution petition was filed without the knowledge of the petitioner and the rent was raised to Rs.12,000/- (Rupees Twelve Thousand only). The petition to fix the rent was filed and the fair rent fixed by the Court is exorbitant and the petitioner was about to file an appeal against the fixation of the rent. The trial Court gave a conditional order to deposit the amount before the Court within the time frame. But, unfortunately the petitioner was suffering from jaundice and he recovered only during the first week of February and there is a delay of 171 days. Though the petitioner



was waiting before the Court till 01.30 p.m., there was no sitting. About 05.00 p.m., the Bench Clerk instructed the petitioner to file a counter statement. It is stated that the petitioner came to know that an ex parte order was passed, as if the petitioner was not present. The production of the medical certificate is not possible, since the petitioner has undertaken country treatment. The Court Officer is at fault and the sufficient reasons were stated in the petition.

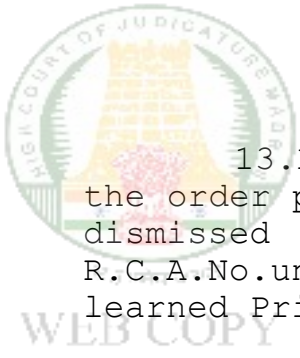
8.On the side of the respondent, it is stated that there was default of 10 months arrears of rent and R.C.O.P. is filed for eviction. Till now, the conditional order passed on 27.06.2018, to deposit a sum of Rs.77,400/- (Rupees Seventy Seven Thousand and Four Hundred only) is not complied by this petitioner.

9.On the side of the respondent, it is further stated that the rental building is a commercial one and the petitioner is doing water can business and the rent fixed is correct. Since the petitioner did not fulfil the conditional order, the petition is to be dismissed. It is also stated that though the respondent was a caveator, no notice was given to the caveator and the Vacation Court numbered the petition without notice to the caveator.

10.On the side of the petitioner, it is stated that till today the petitioner is sending money order of Rs.4,650/- (Rupees Four Thousand Six Hundred and Fifty only) per month, since objection petition against the fixing of rent is pending.

11.On the side of the respondent, it is stated that no such petition is pending and R.C.A. was also dismissed for default and only a petition to restore the R.C.A is pending.

12.It is seen that the petitioner is a tenant from 2009 and originally the rent was fixed as Rs.4,615/- (Rupees Four Thousand Six Hundred and Fifteen only). The contention of the petitioner is that the landlord raised the rent to Rs.12,000/- (Rupees Twelve Thousand only), which the petitioner refused to pay and a petition to fix the fair rent was filed. After the Court fixed the fair rent, the petitioner objected the same and a conditional order was passed to deposit a sum of Rs.77,400/- (Rupees Seventy Seven Thousand and Four Hundred only). The petitioner failed to comply with the order. The present petition is to condone the delay of 170 days in preferring the appeal. The reasons for delay stated by the petitioner is jaundice and no document was filed to prove that the petitioner suffered from jaundice. The date of disease and duration of the disease were not stated in the petition. The number of days of delay is not correctly stated in the petition. Admittedly the petitioner did not comply the order of the Court. Each day delay is to be explained and the petitioner has failed to prove the cause of delay.



13.Hence, there is nothing sufficient enough to interfere in the order passed by the trial Court. This Civil Revision Petition is dismissed and the order passed in I.A.No.207 of 2019 in R.C.A.No.unnumbered of 2019 dated 10.12.2019 on the file of the learned Principal Sub Judge, Madurai is confirmed. No Costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

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Sub Assistant Registrar(CS)

To

The Principal Sub Judge,
Madurai.

+1 CC to M/s.R.RAMASAMY, Advocate (SR-4980[F] dated 06/02/2020)

+1 CC to M/s.T.R.SUBRAMANIAN, Advocate (SR-4914[F] dated 06/02/2020)

C.R.P. (MD)No.2391 of 2019
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