

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2021

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD) No.560 of 2020
and C.M.P. Nos.2881 & 5769 of 2020

R.M.Saai Sharavanan

... Petitioner

Vs.

Rajammal

... Respondent

Civil Revision Petition filed under Article 227 of Constitution of India against the order of XIII Small Causes Court, Chennai made in M.P. No.53 of 2019 in R.C.O.P. No.1343 of 2017 on 14.10.2019, dismissing the condone delay petition sought for delay for filing the set aside petition in R.C.O.P. No.1343 of 2017 ordered against the petitioner in CRP proceedings.

For Petitioner : Mr. S.Prabhu
for Jury Brain Law Office

For Respondent : Mr. D.Ashok Kumar

ORDER

This Civil Revision Petition has been filed to set aside the order made in M.P. No.53 of 2019 in R.C.O.P. No.1343 of 2017 dated 14.10.2019, on the file of XIII Small Causes Court, Chennai.

2. It is seen that the respondent herein is the owner of the building situated at No.19/26, Anjugam Nagar, 1st Street, Ashok Nagar, Chennai – 600 083. The petitioner was a tenant who runs a shop for commercial purpose in the ground floor of the petitioner's building by rental agreement dated 23.03.2012. The advance and monthly rent was fixed at Rs.1,00,000/- and Rs.28,000/- respectively which should be paid on or before 5th day of the succeeding month. The petitioner is running office namely M/s. Sri Thirumala Land Developers Pvt. Ltd. in the said premises and later the petitioner started using the said premises in the names of 'Genext System, Baba temple & Charitable Trust, Baba Temple Trust and Athma Darishanam' by using the common area which should be used by other tenants. It is also seen that the petitioner failed to pay electricity charges and hence the concerned authorities disconnected the electricity line. It is seen that the petitioner issued cheques towards rent for the month of July 2016 and the same was returned as 'Funds Insufficient'. Hence, the respondent issued notice dated 07.09.2016 and the petitioner replied to the

notice on 19.09.2016. Thereafter, on several occasions, the petitioner failed to pay the rent and hence, the respondent sent a legal notice for the rental arrears and it was acknowledged by the petitioner. Again, the petitioner failed to pay the rental arrears. Hence, the respondent filed R.C.O.P. No.1343 of 2017 before the XIII Small Causes Court, to direct the petitioner to vacate and deliver possession of the closed shop in the ground floor on the ground of wilful default of non payment of rent.

3. A counter affidavit was filed by the petitioner denying all the allegations stating that there was no default of rent on the part of the petitioner and that the rents were duly paid by the petitioner without any default. On 18.04.2018, the said RCOP was decreed by XIII Small Causes Court, Chennai, in favour of the respondent and the petitioner was set ex-parte for his non-appearance and execution petition in E.P. No.505 of 2018 was filed by the landlord on 13.11.2018 and notice was sent to the petitioner. After issuance of notice, the petitioner filed a condone delay petition under Section 157 of CPC to condone the delay of 279 days for filing the a set aside petition against the exparte order. The Court below dismissed the said petition. Aggrieved by the dismissal of the condone delay petition, this present Civil Revision Petition is filed.

4. It is brought to the notice of this Court that the already an interim stay was granted on 11.02.2020, for payment of Rs.2,50,000/- and the same was not complied with. Hence, the petitioner seeks extension of time. This Court, by order dated 23.03.2020 granted four weeks time to comply the said order. Till now, the said order has not been complied with. Perusal of the documents shows that the petitioner has been taking treatment from the year 2016. It is seen from the medical records that the petitioner was under treatment at the time of passing of decree in RCOP.

5. Considering the facts and circumstances of the case, this Court is of the view that one more chance may be given to the petitioner to put forth his defence. This Court directs petitioner to pay a sum of Rs.5,00,000/- (Rupees Five Lakh Only) on or before 23.02.2021. On such payment being made, the Court below can re-open RCOP No.1343 of 2017. If the petitioner fails to comply with this order, the Court below can dispose the execution petition in E.P. No.505 of 2018, forthwith, in accordance with law.

With the above direction this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

20.01.2021

Index: Yes/No

Speaking Order/Non Speaking Order

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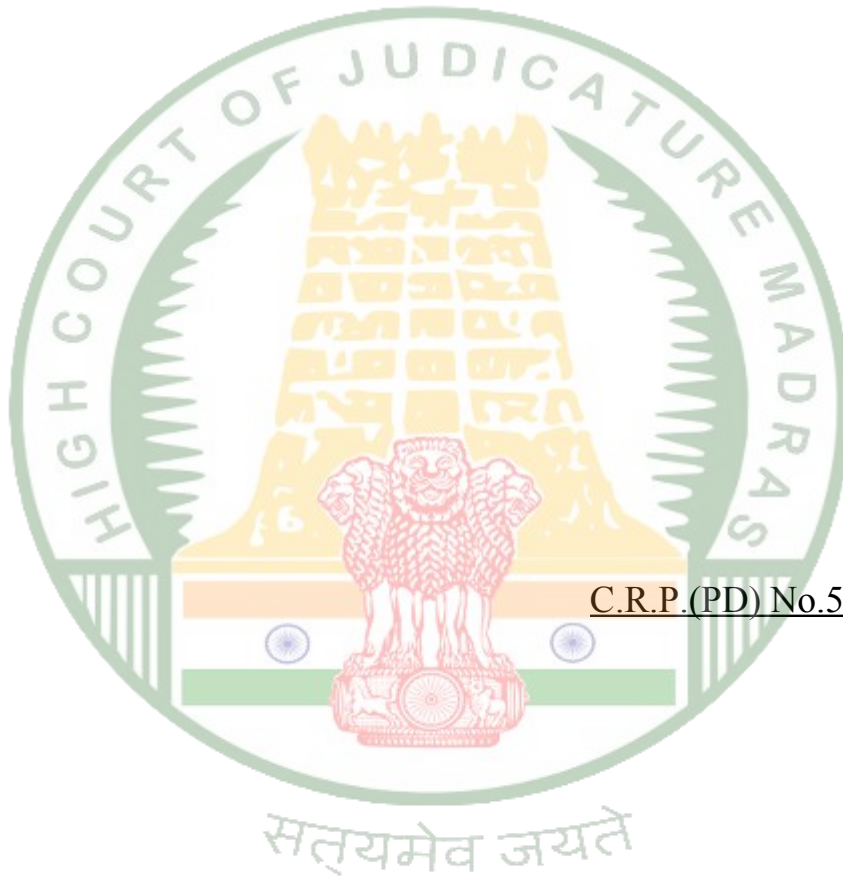
The XIII Small Causes Court, Chennai.



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V.BHAVANI SUBBAROYAN, J.,

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