

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P. (NPD) No.1085 of 2021
and
C.M.P.No.8527 of 2021

A.Kalaivanan (died)
1.Geetha Kalaivanan
2.Ishwarya
3.Aswin Kumar

.. Petitioners/Petitioners/Respondents

Vs

D.Balakumar

... Respondent/Respondent/Petitioner

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decree passed by the Learned Rent Controller/Principal District Munsif, Vellore in I.A.No.184 of 2018 in RCOP No.63 of 2011.

For Petitioners

.. Mr.D.Rajagopal

For Respondent

.. No appearance

ORDER

This Revision Petition has been filed questioning the order dated 13.02.2021 in I.A.No.184 of 2018 in RCOP.No.63 of 2011 passed by the learned Rent Controller / Principal District Munsif, Vellore.

2.I.A.No.184 of 2018 had been filed by the present petitioner/respondent in the Rent Control Petition seeking to condone the delay of 961 days in filing petition to set aside the exparte decree. The said petition was filed under Section 5 of the Limitation Act.

3.The only reason given for the delay as seen from the affidavit filed in support of the said petition was that the previous counsel was not informed about the hearing date and the petitioners herein were not able to attend the Court and thereafter, the Court had set them exparte and subsequently, an exparte decree had also been passed. No other reason had been given to explain the delay.

4.Quite apart from that, it is also stated that the title of the property is in dispute and a suit in O.S.No.79 of 2017 is now pending on the file of the Principal District Munsif, Vellore, seeking to declare a Sale Deed dated 07.12.2010 as null and void.

5.The present Revision Petition has no reasons with the said suit which can be independently decided. If the petitioner herein succeeds on declaration of title or on setting aside the Sale Deed, naturally their rights will once again stand revived.

6.However, the present Revision Petition is only with respect to refusal to condone the delay of 961 days in filing petition to set aside the exparte decree.

7.A perusal of the order now under question shows that there has been an earlier Revision Petition in C.R.P.No.291 of 2020 and an order had been passed on 28.01.2020 by this Court. That Revision Petition had been preferred against the Delivery Order passed by the Executing Court in this case. It is stated that this Court had observed that there is no illegality or irregularity in the order of delivery of possession passed by the Executing Court. Time had been granted to the present petitioner to vacate the premises.

8.That fact had not been brought to the knowledge of Rent Controller / Principal District Munsif, Vellore. It has also not been brought to the knowledge of this Court.

9.As a matter of fact, relevant records relating to the said Civil Revision Petition have not been filed by the present petitioner. It had been revealed only on perusal of the order now under question. It is evident that the present Revision Petition has been filed more out of desperation than with any appropriate reason. The petitioner had already suffered an ex parte decree and the matter is in the Execution stage which fact has also been suppressed by the present petitioner herein. The reasons stated for the delay had been rejected by the learned Rent Controller and as a matter of fact, the learned Rent Controller has stated that the counsel had entered appearance in April 2017 and had filed the application to condone the delay of 961 days only in August 2018. That delay in filing application itself has not been explained.

10.It is also seen from the list of exhibits filed by the present petitioners before the learned Rent Controller, that they had an habit of changing their Advocates. They had originally engaged an Advocate Mr.G.T.Venkataraman, and later appointed Advocates Mrs.L.Meenakshi and Mr.Shyamsundar and later they had engaged an Advocate Mr.Thinakaran and then they had engaged an Advocate Ms.Sharmiladevi. This habit of changing Advocates and then claiming innocence and seeking indulgence cannot be accepted by this Court.

11.I do not find merits in the Civil Revision Petition and the same is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

15.06.2021

Internet:Yes/No
Index:Yes/No
smv

To
The Rent Controller cum Principal District Munsif, Vellore.



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C.V.KARTHIKEYAN,J.

Smv



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