

C.M.P.No. 3510 of 2021 in
C.R.P. No.88 of 2021

V.BHAVANI SUBBAROYAN J.,

Heard Mr.Aravind Subramaniam, learned counsel, for M/s Tatva Legal, appearing for the petitioner and perused the documents placed on record.

2. This petition has been filed to grant enlargement of time for a period of 90 days for compliance of the order dated 27.01.2021 passed by this Court in C.R.P.No.88 of 2021.

3. The learned counsel for the petitioner submits that during the year 2018, the petitioner was diagnosed with "Chronic Kidney Disease Patient", wherein his renal angiogram showed multiple cortical cysts in both the kidneys. In view thereof, the petitioner was advised by the Doctors to undergo Hemodialysis process thrice a week and the petitioner had registered for Cadaver Kidney Transplantation with Government of Tamilnadu. Further, Nephrologist advised to undergo multiple tests / examinations and provide fitness certificate as a prerequisite to undergo the Renal Transplantation surgery.

4. That apart, the learned counsel for the petitioner submits that the petitioner was detected with "Coronary Artery Disease" upon clinical investigation and evaluation, the petitioner was diagnosed with "coronary artery disease - Triple vessel disease" with 98% blockage in the arteries. On a reading of the said test reports, the cardiologists had urged the petitioner to undergo coronary Artery bypass graft ("CABG") immediately without any further delay.

5. The learned counsel for the petitioner contends that the hotel and restaurant business have come to complete standstill owing to strict lockdowns since March, 2020 to curtail the spread of Corona virus disease - 2019 induced Pandemic ("Covid-19/pandemic") The demand in the hospitality industry has taken a toll due to the pandemic. The restrictions imposed on non-essential employees travel and labour shortages have adversely impacted the business and has resulted in financial stress. In view of the foregoing reasons, the petitioner seeks enlargement of time for compliance of order dated 27.01.2021 and hence this petition.

6. On going through the documents, it is seen that the respondents/landlord have filed R.C.O.P.No. 565 of 2016 to evict the

petitioner from the suit schedule property on the ground of wilful default in paying the rent of Rs.1,16,30,162/- for 47 months viz., from May 2012 to March 2016. Further, the respondents have also filed a miscellaneous petition in M.P.No.45 of 2019 in R.C.O.P.No.565 of 2016 seeking a direction to deposit the alleged rental arrears of Rs.2,45,18,662/- from May to February 2019 and the same was allowed. As against the same, the petitioner has preferred an appeal in R.C.A.No.113 of 2020 before the Rent Control Appellate Authority and M.P.No.1 of 2020 was also preferred seeking interim stay of order passed in M.P.No.45 of 2019 in R.C.O.P.No.565 of 2019. The learned appellate authority has passed an order of interim stay of order passed in M.P.No.45 of 2019 subject to deposit of 50% of the rental arrears, viz., Rs.1,22,59,331/- by the petitioner on or before 02.12.2020.

7. In consequence, the petitioner has filed M.P.No.2 of 2020 in R.C.A.No.113 of 2020 seeking to enlarge the time granted to the petitioner to deposit the aforesaid arrears of rent in part by a period of 6 months and the same was allowed in part by granting two months time to comply the order dated 07.11.2020 in M.P.No.1 of 2020 in R.C.A.No.113 of 2020 on or before 01.02.2021 failing which the interim stay shall be vacated without

any reference. Challenging the same, the petitioner had filed the Civil Revision Petition. Having considered the facts and circumstances of the case, submissions of the learned counsel on either side and the various citations rendered by the petitioner, this Court had granted one month time to deposit the amount of Rs.1,22,59,331/- to the respondents' landlord account on or before 26.02.2021.

8. Today, i.e., on 25.02.2021, Mr.Aravind Subramaniam, learned counsel for the petitioner had mentioned before this Court to bring the matter in the urgent list / additional list and this Court considering the fact that it is a Miscellaneous petition, had directed the Registry to post this matter under 'Additional List'.

9. On a perusal of the affidavit filed in support of C.M.P.No.3510 of 2021, it is seen that there is no change of circumstances and there is no new facts stated by the petitioner and the petitioner has mentioned same facts, ie., his health condition, which was already mentioned in the Revision Petition. Further, considering the pathetic condition of the petitioner, this Court had earlier considered the same and instead of keeping the Revision Petition pending, had allowed the petition by granting time for a period of

one month. Further, the arrears amount due is to the tune of Rs.2 Crores and odd, that being the case, the petitioner has come up with this petition at the fag end, i.e., 25.02.2021, that too when the matter was about to be called on 26.02.2021.

10. It is also crystal clear that the petitioner has not taken any steps to show his bonafides by depositing atleast a part of amount before the court below. It is also seen that when the petitioner seeks for enlargement of time for a period of 90 days and earlier, time has been granted by this Court, Appellate Court as well as the trial court, there is no specific reason stated by the petitioner in the petition for not depositing the amount earlier. Further, when the court below had granted a period of three months, [i.e., 08.09.2020, order has been passed granting time till 18.11.2020] the petitioner failed to deposit the amount. Thereafter, the appellate court had granted initially one month time to deposit 50% of the rental arrears, viz., Rs.1,22,59,331/- and thereafter, by way of M.P.No.2 of 2020, the appellate court had extended time for a period of two months, again, the petitioner failed to deposit the same. Subsequently, by way of Civil Revision Petition, this Court, has granted one month time to deposit the amount, once overagain, the petitioner has failed to deposit the amount.

11. It is no doubt true that when number of opportunities were granted to the petitioner by the court below and appellate court and as well as by this Court, petitioner did not evince any interest to deposit the amount and even assuming if further time is granted, definitely, the petitioner will not deposit the amount, that being the factual position, this Court, at this juncture, is not at all inclined to grant further extension of time, as the same would definitely cause irreparable hardship to the respondents.

In view of the above, the present miscellaneous petition seeking to grant enlargement of time is hereby dismissed.

25.02.2021

Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking Order

ssd

To

1. The XII Judge, Court of Small Causes Court,
Chennai.
2. The Rent Control Appellate Authority,
VII Court of Small Causes, Chennai

V.BHAVANI SUBBAROYAN, J.,

ssd



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25.02.2021

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