

C.M.P.Nos.12642, 12714, 12716 and 13206 of 2021
in
C.R.P.(SR) Nos.84076, 83979, 84074 and 84075 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 02.09.2021	Orders pronounced on 28.09.2021
----------------------------------	------------------------------------

Coram
THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.M.P.Nos.12642, 12714, 12716 and 13206 of 2021
in
C.R.P.(SR) Nos.84076, 83979, 84074 and 84075 of 2020

N.Imtiaz Sheriff ... Petitioner in all CMPs.

Vs

J.Harishankar Agarwal (Deceased)

1. Aditya Agarwal
S/o. Late J.Harishankar Agarwal
for himself and on behalf of other co-owners of
The Jayanarayan Jayagovind Agarwal Property Complex
Old No.145, New No.82 & 84, Luz Church Road
Mylapore, Chennai – 600 004.
... Respondent in all CMPs.

Civil Miscellaneous Petitions are filed under Section 5 of Limitation Act seeking to condone the delay of 26 days, 12 days, 13 days and 23 days in filing the Civil Revision Petitions C.R.P.(SR) Nos.84076, 83979, 84074 and 84075 of 2020 on the file of this Court.

For Petitioner .. Mr.M.Nandhakumar
in all CMPs. for
M/s.Eswar Kumar and Rao

For Respondent .. Mr.E.OM Prakash
in all CMPs. for
M/s.K.Bakthavachalu

COMMON ORDER

These Civil Miscellaneous Petitions are filed to condone the delay of 26 days, 12 days, 13 days and 23 days in filing the Civil Revision Petitions C.R.P.(SR) Nos.84076, 83979, 84074 and 84075 of 2020 on the file of this Court.

2. Learned counsel for the petitioner submitted that the respondent filed RCOP Nos.443 of 2016, 445 of 2016, 444 of 2016 and 446 of 2016 on the file of the XVI Small Causes Court, Chennai for fixation of fair rent. The fair rent was fixed at Rs.14,942/-, Rs.16,069/- , Rs.14,674/- and Rs.15,157/- respectively in the above RCOPs by the learned Rent Controller on 12.09.2017. Petitioner preferred Appeals before VII Small Causes Court, Chennai in RCA Nos.747 of 2017, 749 of 2017, 750 of 2017 and 748 of 2017. The learned Rent Control

Appellate Judge confirmed the orders of the learned Rent Controller on 16.09.2019, 18.09.2019, 19.09.2019 and 18.09.2019 respectively. Therefore, petitioner filed these Revisions.

3. Learned counsel for the petitioner further submitted that Advocate Mr. Md.Ashfaq Rafi was handling the case. He obtained the judgment copy of RCA Nos.747 of 2017, 749 of 2017, 750 of 2017 and 748 of 2017 on 03.02.2020. The appeals ought to have been filed within 90 days. He informed that Civil Revision Petitions may be filed within a week, but he did not file the Civil Revision Petitions within the time. Mean time, Covid-19 lockdown was imposed. Only on 30.11.2020, previous counsel filed Civil Revision Petitions. Therefore, there is a delay of 26 days, 12 days, 13 days and 23 days respectively in filing the Civil Revision Petitions. Hence, he prayed for condoning the delay.

4. Learned counsel for the respondent opposed these petitions on the ground that the delay cannot be condoned mechanically and routinely. When a special statute provides for a specific period of limitation, the Revision should have been filed within the time stipulated

under Section 25 of Tamil Nadu Buildings (Lease and Rent) Control Act. When that is not done, the petitioner cannot seek to condone the delay. The limitation for filing the Civil Revision Petitions was over, even before the commencement of Covid-19 lockdown. Only if the limitation period ends after the commencement of Covid-19 lockdown, period is extended by the directions issued by the Hon'ble Supreme Court from time to time starting from the order passed in Suo Motu Writ Petition (Civil) No.3 of 2020 on 23.03.2020. In the case before hand, admitting the claim of the petitioner that he received certified copies on 03.02.2020, the revisions ought to have been filed within a month ie., on or before 02.03.2020. The period of limitation is extended only with effect from 15.03.2020, as per the order passed in Suo Motu Writ Petition (Civil) No.3 of 2020. Learned counsel for the respondent also relied on the judgment reported in **1997 (1) LW 603 (Pattanswami ..vs.. Amirtha Jothi)** for the proposition that the limitation period cannot be extended beyond the period stipulated under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act. Reliance was placed on the judgments reported in **2012 (2) SCC 317 (Sagufa Ahmed and others ..vs.. Upper Assam Polywood Products Pvt. Ltd and others)** for the

proposition that if the limitation expires before the imposition of lockdown on 24.03.2020, there was no impediment for filing appeal and the appeal filed subsequent after the limitation period, the period of delay in filing the appeal cannot be condoned. Judgment in **2010 (1) LW 660 (A.Shanmugakani and another .vs. A.R.Jagannath and others)** was relied for the proposition that the delay in filing the copy application and filing of revision beyond the period of limitation cannot be condoned.

5. Considered the rival submissions and perused the records. The learned counsel for the petitioner produced the copies of the order of the Hon'ble Supreme Court in Civil Nos.3 of 2020 dated 23.03.2020, 06.05.2020, 08.03.2021 and 27.04.2021. It is seen from the order dated 27.04.2021 that the order dated 23.03.2020 in continuation of the order dated 08.03.2021 direct that the period of limitation as prescribed under any general and special laws in respect of all quasi-judicial proceedings whether condoned or not shall stand extended until further orders. It is seen from the judgments and decrees in RCA Nos.747 of 2017, 749 of 2017, 750 of 2017 and 748 of 2017 that the judgments were delivered on 16.09.2019, 18.09.2019, 19.09.2019 and 18.09.2019 respectively and

copy applications in RCA Nos.747 of 2017, 749 of 2017 and 748 of 2017 were applied on 19.09.2019 and copy application in RCA No.750 of 2017 was applied on 20.09.2019, stamps in all RCAs were called on 09.01.2020, stamps were deposited on 20.01.2020, copies were made ready on 01.02.2020 and delivered on 03.02.2020. As per section 25 of Tamil Nadu Buildings (Lease and Rent) Control Act, the revision against the judgment in Rent Control Appeal ought to have been filed within one month from the date on which the order or the proceedings is communicated. As already said, the copies of the judgments were delivered to the petitioner on 03.02.2020. Therefore, he ought to have filed Revisions on or before 02.03.2020. Proviso to Section 25 of Tamil Nadu Buildings (Lease and Rent) Control Act gives discretion to the High Court to allow further time, not exceeding one month, for filing of any such application, if it is satisfied that the applicant has sufficient cause for not preferring the application within the time specified. It is clear from this Section that on sufficient cause being shown, this Court can allow further time of one month for filing the Revision. It is submitted by the learned counsel for the petitioner that there was a mistake committed by the Advocate and that resulted in not filing the

C.M.P.Nos.12642, 12714, 12716 and 13206 of 2021
in
C.R.P.(SR) Nos.84076, 83979, 84074 and 84075 of 2020

revision petitions in time. This Court opines that for the fault committed by the Advocate, party cannot be penalised. Therefore, this Court is of the considered view that this Court, in its discretion, can extend further period of one month for filing the revision petitions. In that case, the revision petitions can be filed on or before 01.04.2020. When this extended period is granted to the petitioner, the petitioner is saved by the Hon'ble Supreme Court's orders in Suo Motu Writ Petition (Civil) No.3 of 2020. Therefore, this Court condones the delay in filing the Civil Revision Petitions and directs the Registry to number the above Civil Revision Petitions, if they are otherwise in order.

28.09.2021

mra

Index : Yes / No

Internet : Yes / No

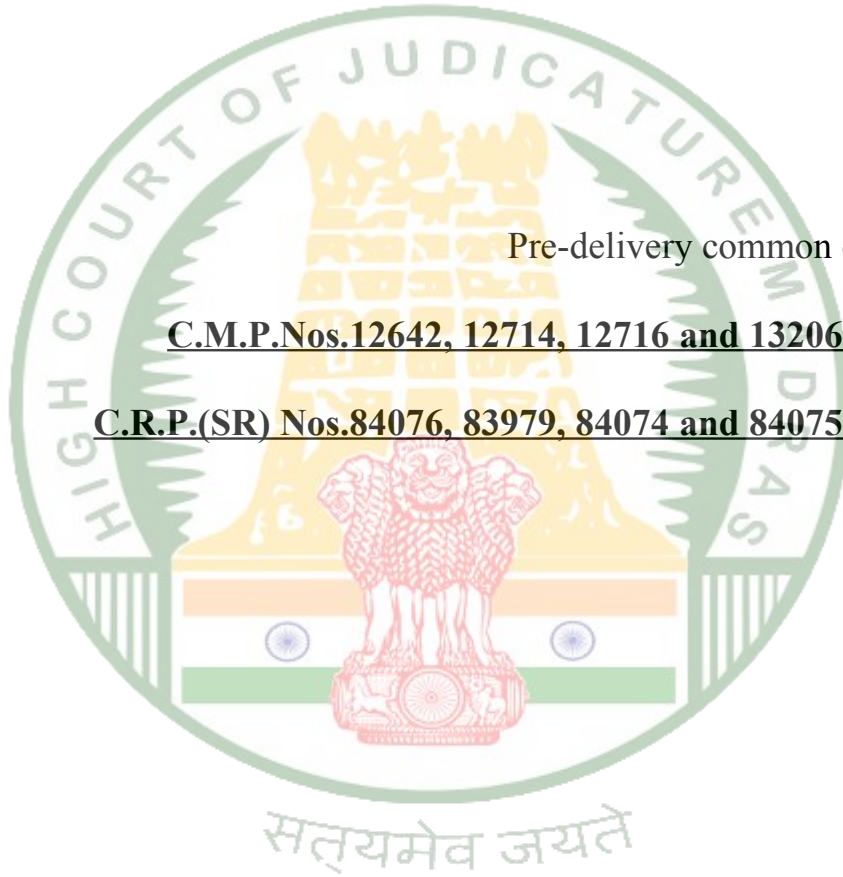
Speaking order : Yes / No

WEB COPY

C.M.P.Nos.12642, 12714, 12716 and 13206 of 2021
in
C.R.P.(SR) Nos.84076, 83979, 84074 and 84075 of 2020

G.CHANDRASEKHARAN, J.

mra



Pre-delivery common order in

C.M.P.Nos.12642, 12714, 12716 and 13206 of 2021
in
C.R.P.(SR) Nos.84076, 83979, 84074 and 84075 of 2020

WEB COPY

28.09.2021