



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.NO.2711 OF 2021

AND

C.M.P.NO.19894 OF 2021

1. Vikram @ Vicky
2. Gayathri

... Petitioners

.Vs.

D.Sadanandan

... Respondent

PRAYER:-

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 07.10.2021 passed in M.P.No.2 of 2021 in R.C.O.P.No.1579 of 2017 on the file of the XV Judge, Small Causes Court, Chennai.

For Petitioners : Mr.J.Deliban

For Respondent : Ms.M.Janaki
For M/s.K.Siddharthan

O R D E R

The challenge in this revision is to the order made by the learned Rent Controller in M.P.No.1 of 2021 in RCOP.No.1579 of 2017, an application seeking to reopen the evidence to enable the petitioners to re-examine the expert witness.

2. The main proceeding is one under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act for fixation of fair rent. The petitioners landlord had let in evidence. When the tenant was to lead evidence the pandemic broke out leading to the lock down. Thereafter, since the tenant did not examine the expert witness, the evidence was closed on 06.01.2021 and the case was adjourned to 23.01.2021 for arguments. On the said date, the petitioners filed MP.No.1 of 2021 seeking to reopen the evidence to enable him to examine the Expert/Civil Engineer.



3. The learned Rent Controller taking into account the explanation offered, allowed the application on condition that the expert must be examined in full on 29.03.2021 and upon failure the application will stand automatically dismissed. On 29.03.2021, the expert was not present. The Court recorded the absence and dismissed the application. Hence, the petitioners came up with MP.No.2 of 2021 seeking recall of the order made in MP.No.1 of 2021. The learned Rent Controller dismissed the same on the ground that the petitioners have not chosen to avail of the opportunity given and hence, he is not entitled to further indulgence.

4. I have heard Mr.J.Deliban, learned counsel appearing for the petitioners and Ms.M.Janaki for M/s.K.Siddharthan, learned counsel appearing for the respondent.

5. No doubt, there has been some negligence on the part of the petitioners in prosecuting the proceedings. Considering the fact that the main proceeding is one for fixation of fair rent, I am of the considered opinion that the petitioners should be given an opportunity to let in evidence of the expert so that the Court is in a better position to determine the fair rent payable. Therefore, while allowing the Revision and setting aside the order of the learned Rent Controller, MP.No.2 of 2021 will stand allowed and the order dated 06.03.2021 passed in MP.No.1 of 2021 is set aside. MP.No.1 of 2021 is allowed with the condition that the petitioners should let in evidence and complete the examination of the expert by 07.01.2022. A longer time is given considering the intervening vacation. The respondent will have time to cross examine the expert till 28.01.2022. If the Chief Examination of the expert is not completed by 7th day of January 2022, M.P.No.1 of 2021 will stand dismissed automatically. The Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vs

To

1. The XV Judge,
Small Causes Court,
Chennai.



2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

WEB COPY

+1cc to Mr.J.Deliban, Advocate, S.R.No.66735

C.R.P.NO.2711 OF 2021 AND
C.M.P.NO.19894 OF 2021

SSN(CO)
PBS/30/12/2021