

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2021

CORAM

THE HON'BLE MR. JUSTICE A.D. JAGADISH CHANDIRA

**C.R.P. (NPD) Nos. 1483 and 1484 of 2017
and
C.M.P. No. 6864 of 2017**

1. Chennai Central Co-operative Bank Limited,
Rep. by the General Manager,
No. 215, Prakasam Salai,
Chennai - 600 108.
 2. Chennai Central Co-operative Bank Limited,
Rep. by the Branch Manager,
West Mambalam Branch,
No. 21, Devanathan Colony,
Chennai - 600 033.
- ... Petitioners in both C.R.P.s

Devanathan & Sons,
Represented by its Managing Partner,
N.D.J. Renganath,
No. 45, Old No. 10, Dr. Rangachari Road,
Mylapore,
Chennai - 600 004.

... Respondent in both C.R.P.s

Prayer in C.R.P. (NPD) No. 1483 of 2014:- Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, 1960, praying to set aside the order dated 09.03.2016 made in M.P. No. 55 of 2015 in R.C.A. No. 344 of 2008 passed by the Learned VII Judge of Small Causes Court (Rent Control Appellate Authority), Chennai, by allowing the above Revision Petition.

Prayer in C.R.P. (NPD) No. 1484 of 2014:- Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, 1960, praying to set aside the order dated 09.03.2016 made in M.P. No. 121 of 2015 in R.C.A. No. 344 of 2008 passed by the Learned VII Judge of Small Causes Court (Rent Control Appellate Authority), Chennai, by allowing the above Revision Petition.

For Petitioners : Mr. R.Bala Ramesh
(in both C.R.P.s)

For Respondent : Mrs. AL.Gandhimathi
(in both C.R.P.s)

COMMON ORDER
(The case has been heard through video conference)

These Civil Revision Petitions have been filed against the orders dated 09.03.2016 in M.P. Nos. 55 and 121 of 2015 in R.C.A. No. 86 of 2015 passed by the VII Court of Small Causes, Chennai respectively.

2. Brief facts of the case:-

The Petitioners are the Tenants in respect of the premises situated at No. 21, Devanathan Colony, West Mambalam, Chennai - 600 033. The Petitioners/Tenants are the quasi Government body and the banking institution. The Petitioners/Tenants had originally entered into a lease agreement with the Respondent/Landlord for a period from 01.05.1986 to 30.04.1989 for a monthly rent of Rs.4,470/-. The lease period was periodically renewed by fresh lease

agreements. The last of the lease agreement was for the period from 01.05.1998 to 30.04.2001 for a monthly rent of Rs.9,994/-. The tenancy is for a non-residential purpose, i.e., commercial purpose and the tenancy is according to English Calendar month. The Respondent/Landlord has made several request to the Petitioners/Tenants to come forward for renewal of lease agreement and also for enhancement of monthly rent. Since there was no response from the Petitioners/Tenants, the Respondent/Landlord had filed R.C.O.P. No. 1842 of 2005 before the Small Causes Court, Chennai/Rent Controller for fixing the fair rent at Rs.57,000/-. The Rent Controller by order dated 13.07.2006 in R.C.O.P. No. 1842 of 2005 had fixed the monthly fair rent at Rs.31,393/- from the date of the petition, against which, the Petitioners/Tenants had filed R.C.A. No. 344 of 2008 before the VII Court of Small Causes, Chennai. When the appeal is listed for final hearing, there was no representation for the Petitioners/Tenants herein and the Appellate Court by order dated 03.06.2013 had dismissed the appeal. Later, the Petitioners/Tenants had filed M.P. No. 121 o 2015 in R.C.A. No. 344 of 2008 to set aside the order dated 03.06.2013 made in R.C.A. No. 344 of 2008 and since there was a delay of 551 days in filing the same, M.P. No. 55 of 2015 in R.C.A. No. 344 of 2008 was filed under Section 5 of the Limitation Act to condone that delay. The ground raised by the Petitioners/Tenants is that the Counsel, who had filed the appeal, was

subsequently appointed as a Government Advocate in the month of May 2011 and hence, he could not personally follow the case and his junior Counsel, who looked after the case, left practice. Therefore, the case could not be followed. While so, the appeal was listed for enquiry and it was dismissed for default on 03.06.2013. Thereafter, the Respondent/Landlord has instituted the suit in O.S. No. 6869 of 2014 before the XIX Additional City Civil Court, Chennai for recovery of arrears of rent based on the fair rent fixed in R.C.O.P. No. 1842 of 2005. Only then, the Petitioners/Tenants came to know about the dismissal of R.C.A. No. 344 of 2008. The Appellate Court finding that no sufficient reason has been stated by the Petitioners/Tenants herein to condone the delay, had dismissed I.A. No. 55 of 2015 against which, the present Civil Revision Petition in C.R.P. (NPD) No.1483 of 2017 was filed. Since I.A. No. 55 of 2015 was dismissed, I.A. No. 121 of 2015 was also dismissed against which, the present Civil Revision Petition in C.R.P. (NPD) No. 1484 of 2017 was filed.

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3. The Learned Counsel for the Petitioners/Tenants would submit that the Counsel, who had filed R.C.A. No. 344 of 2008, was subsequently appointed as a Government Advocate and his junior Counsel, who followed the case before the Appellate Court, left practice and thereby, there was some lapses on the side

of the Petitioners/Tenants. However, he would submit that the Petitioners/Tenants are banking institution run by public funds and that due to the lapses on the part of the Counsel, Bank should not be allowed to suffer. He would reiterate that though there had been lapses on the part of the Petitioners/Tenants, if the orders dated 09.03.2016 in M.P. Nos. 55 and 121 of 2015 are not set aside, it would gravely affect the interest of the Bank and thereby, he would pray that these Civil Revision Petitions may be allowed and the orders dated 09.03.2016 may be set aside and R.C.A. No. 344 of 2008 may be restored to its original file. He would further submit that to meet the ends of justice, one more opportunity may be given to the Petitioners/Tenants and a time frame may also be fixed for the disposal of R.C.A. No. 344 of 2008.

4. Learned Counsel for the Respondent/Landlord would vehemently oppose stating that the Petitioners/Tenants had given a very meagre amount as rent despite insistence by the Respondent/Landlord for enhancement of rent. She would further submit that the Petitioners/Tenants did not come forward for enhancement of rent and thereby, forcing the Respondent/Landlord to file R.C.O.P. No. 1842 of 2005, which was decreed by order dated 13.07.2006. She would further submit that the Petitioners/Tenants had filed R.C.A. No. 344 of 2008 and later left it to be dismissed for default. She would further submit that

even thereafter, they had not paid the enhanced amount and thereby, the Respondent/Landlord had instituted the suit in O.S. No. 6869 of 2014 for recovery of fair rent fixed in R.C.O.P. No. 1842 of 2005 and only after the service of summons, the condone delay petition and restoration petition was filed.

5. At this juncture, Learned Counsel for the Petitioners/Tenants would submit that as on date, the Petitioners/Tenants have vacated the petition premises and handed over the possession to the Respondent/Landlord. He would further submit that the Petitioners/Tenants would diligently follow the appeal and contest the same, if one more chance is given finally.

6. Heard the Learned Counsels and perused the materials available on record.

7. The Petitioners/Tenants are a Co-operative Bank run with public funds. Due to the lapses on the part of the Counsel, who appeared for the Petitioners/Tenants, the appeal filed by them has been dismissed. In order to meet the ends of justice, this Court is of the opinion that these Civil Revision Petitions shall be allowed and the Petitioners/Tenants shall be given one more

chance to contest R.C.A. No. 344 of 2008 on payment of costs of Rs.25,000/- for each Civil Revision Petition to the Respondent/Landlord within a period of four weeks from the date of receipt of a copy of this order failing which, these Civil Revision Petitions shall automatically stand dismissed.

8. In view of the above discussion, orders dated 09.03.2016 in M.P. No. 55 and 121 of 2015 in R.C.A. No. 344 of 2008 are set aside and R.C.A. No. 344 of 2008 is restored to the file of the VII Court of Small Causes, Chennai. The VII Court of Small Causes, Chennai is directed to dispose of R.C.A. No. 344 of 2008 within a period of eight weeks from the date of receipt of a copy of this order.

8. In the result, these Civil Revision Petition are allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

vjt

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order

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A.D. JAGADISH CHANDIRA, J.

vjt

To

1. VII Court of Small Causes,
Chennai.
2. XIX Additional City Civil Court,
Chennai.



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