



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.P. (MD) No.3103 of 2021
in
CRP(MD).No.SR16610 of 2018

Sundaresan (died)
S.Balamurugan

: Petitioner/Petitioner

Vs.

A.K.Usha Devi (died)
1.A.H.S.K.Krishnamoorthi
2.A.K.Ramprasath
3.A.K.Sabarish
4.A.K.Kamal Priya
5.A.K.Sathya Priya

: Respondents/Respondents

PRAYER in C.M.P(MD).No.3103 of 2021: The Civil Miscellaneous Petition has been filed under Section 151 of Code of Civil Procedure, to condone the delay of 698 days in representing the CRP(MD).SR.No.16610 of 2018.

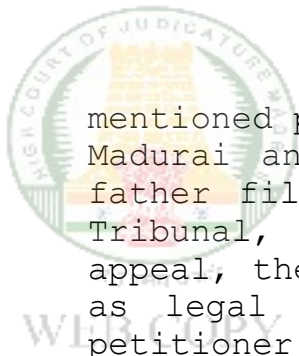
PRAYER in C.R.P.(MD).SR.No.16610 of 2018 : The Civil Revision Petition has been filed under Section 25 of Tamil Nadu Building Lease and Rent Control Act, to set aside the fair and decreetal order dated 03.10.2017 made in R.C.A.No.20 of 2010 on the file of the Rent Control Appellate Tribunal, Principal Sub Court, Madurai partly confirming the fair and decreetal order dated 23.12.2009 made in R.C.O.P.No.72 of 2007 on the file of the Rent Controller, Principal District Munsif Court, Madurai Town.

For Petitioner : Mr.D.Senthil

O R D E R

This petition has been filed by the petitioner seeking to condone the delay of 698 days in representing the above Civil Revision Petition.

2.The learned counsel for the petitioner would state that one A.K.Ushadevi filed R.C.O.P.No.72 of 2007 on the file of the Rent Controller, Principal District Munsif Court, Madurai Town against the petitioner's father for fixation of fair rent for the petition

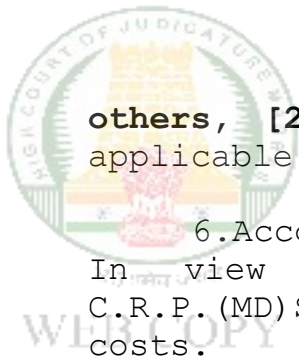


mentioned property situated at No.198, Palace Road, East Mada Street, Madurai and the same was allowed, against which, the petitioner's father filed R.C.A.No.20 of 2010 before the Rent Control Appellate Tribunal, Principal Sub Court, Madurai. During pendency of the appeal, the petitioner's father died and the petitioner was impleaded as legal heir of his deceased father. In the said appeal, the petitioner has filed an application to appoint an Advocate Commissioner to note down the distance between the suit property and the property mentioned in Ex.P1 sale deed. After hearing the case, the learned Rent Control Appellate Authority dismissed the appeal along with an application for appointment of Advocate Commissioner. Aggrieved over the same, the petitioner preferred the present revision petition.

3.The revision was filed before this Court on 18.04.2018 and the same was returned by the Registry on 19.04.2018. The petitioner contended, he handed over entire papers to his counsel in the month of December 2018. Thereafter, when the petitioner contacted his counsel, the petitioner's counsel informed him that the returned papers were represented before this Court but contrary to the same, later he has stated that he found the returned papers were mixed with other bundles while he shifted his office. Thereafter, the returned papers were represented before this Court. Due to the above reason, there was a delay of 698 days in representing the above revision. The learned counsel would submit that the above delay in representation is neither willful nor wanton and the same occurred due to the above reasons only. Thus, he would pray to condone the delay.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5.Perusal of record shows that RCA.No.20 of 2020 along with application to appoint an Advocate Commissioner has been filed against the order of fixing the fair rent passed by the learned Rent Controller, Principal District Munsif, Madurai Town in R.C.O.P.No.72 of 2007. The said RCA and the application for appointment of Advocate Commissioner were dismissed as early as on 03.10.2007. The petitioner has filed this revision with condone delay petition to condone the delay of 137 days in filing the above revision. The RCOP is of the year 2007 and the same was allowed as early as on 23.12.2009, against which, RCA.No.20 of 2010 has been filed and it has been dismissed as early as on 03.10.2017 and this revision was filed with delay of 137 days in filing the revision and thereafter, the papers have been returned and now, it has been represented with a delay of 698 days. In my opinion, it is a clear abuse of process of the Court. The delay is not minimal and it is a very long delay. The reasons stated for the delay are not acceptable reasons and not supported by any evidence. This Court is not inclined to condone such a huge delay. The principles enumerated in the Judgment reported in **Esha**



others, [2013 (5) CTC 547 (SC) : 2013 (5) LW 20], is squarely applicable to the present facts and circumstances of the case.

6. Accordingly, this Civil Miscellaneous Petition is dismissed. In view of the order passed in CMP(MD)No.3103 of 2021, C.R.P. (MD) SR.No.16610 of 2018 is rejected at the SR stage itself. No costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Rent Control Appellate Tribunal,
Principal Sub Court, Madurai.

2. The Rent Controller,
Principal District Munsif,
Madurai Town.

+1 CC to M/s.D.SENTHIL, Advocate (SR-14603[F] dated 31/03/2021)

C.M.P. (MD) No.3103 of 2021
in
CRP (MD) .No.SR16610 of 2018
30.03.2021

msa

AM/30.04.2021/3P/4C