



CRP.Nos.3563, 3564, 3565 & 3566 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Civil Revision Petition [NPD] Nos.3563, 3564, 3565 & 3566 of 2013

& M.P.No.1, 1 & 2 of 2013 &

CMP.Nos.11735, 11737, 11738 of 2013, 11687, 11691, 11695, 11688,

11690, 11693, 11696, 11689 & 11694 of 2020 &

2581, 5125, 5127, 5128, of 2022

1. M/s.Home Life Furniture Company,
represented by Mr.Syed Muneer Ahmed,
S/o.Abdul Gaffoor,
Old.No.153, New No.42, Eldams Road,
Tyenampet, Chennai – 600 018.

2. M/s.Otel International,
represented by Mr.Syed Muneer Ahmed,
S/o.Abdul Gaffoor,
Old No.153, New No.42, Eldams Road,
Teynampet, Chennai – 600 18.

... Petitioners

..Vs..

Subbulakshmi Ammal

... Respondent

Prayer in CRP [NPD] 3563 of 2013 : Civil Revision Petition has been
filed under Section 25[1] of the Tamil Nadu Buildings [Lease and Rent



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Control] Act 1960 as Amended by Act 23 of 1973 against the judgment and decree dated 05.07.2013 made in R.C.A.No.15 of 2012 by the learned Rent Controller Appellate Authority, the VIII Judge, Small Causes Court, Chennai filed against the Order and decree dated 01.11.2011 passed in R.C.O.P.No.2081 of 2009 by the learned Rent Controller, X Small Causes Court, Chennai and to set aside the same.

Prayer in CRP [NPD] 3564 of 2013 : Civil Revision Petition has been filed under Section 25[1] of the Tamil Nadu Buildings [Lease and Rent Control] Act 1960 as Amended by Act 23 of 1973 against the judgment and decree dated 05.07.2013 made in R.C.A.No.16 of 2012 by the learned Rent Controller Appellate Authority, the VIII Judge, Small Causes Court, Chennai filed against the Order and decree dated 01.11.2011 passed in R.C.O.P.No.2082 of 2009 by the learned Rent Controller, X Small Causes Court, Chennai and to set aside the same.

Prayer in CRP [NPD] 3565 of 2013 : Civil Revision Petition has been filed under Section 25[1] of the Tamil Nadu Buildings [Lease and Rent Control] Act 1960 as Amended by Act 23 of 1973 against the judgment and decree dated 05.07.2013 made in R.C.A.No.190 of 2012 by the learned Rent Controller Appellate Authority, the VIII Judge, Small Causes Court, Chennai filed against the Order and decree dated 01.11.2011 passed in R.C.O.P.No.2082 of 2009 by the learned Rent Controller, X Small Causes Court, Chennai and to set aside the same.



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Prayer in CRP [NPD] 3566 of 2013 : Civil Revision Petition has been filed under Section 25[1] of the Tamil Nadu Buildings [Lease and Rent Control] Act 1960 as Amended by Act 23 of 1973 against the judgment and decree dated 05.07.2013 made in R.C.A.Nos. 191 of 2012 by the learned Rent Controller Appellate Authority, the VIII Judge, Small Causes Court, Chennai filed against the Order and decree dated 01.11.2011 passed in R.C.O.P.No.2081 of 2009 by the learned Rent Controller, X Small Causes Court, Chennai and to set aside the same.

For petitioners : Mr.M.Muniruddin Sheriff
[in all CRPs]

Respondent : --
[in all CRPs]

COMMON ORDER

Challenging the fair and decreetal Order dated 05.07.2013 made in R.C.A.Nos.15, 16, 190 & 191 of 2012 by the learned Rent Controller Appellate Authority, the VIII Judge, Small Causes Court, Chennai by dismissing the appeal filed against the Order and decree dated 01.11.2011 passed in R.C.O.P.Nos.2081 & 2081 of 2009 by the learned Rent Controller, X Small Causes Court, Chennai and to set aside the same.

2. During the pendency of these Civil Revision Petitions, the sole



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respondent died. Hence, a third party who purchased the property from the legal heirs of the sole respondent has filed petitions in CMP.Nos.2581, 5125, 5127 and 5128 of 2022 to implead themselves as a party respondent in all the Civil Revision Petitions.

3. Thereafter, the petitioners herein have filed Civil Miscellaneous Petitions in CMP.Nos.11735, 11737, 11738 of 2013, 11687, 11691, 11695, 11688, 11690, 11693, 11696 , 11689 & 11694 of 2020 to condone delay of 1430 days to file a petition to set aside the abatement caused due to the death of the sole respondent, to set aside the abatement and to bring on record the legal heirs of the deceased sole respondent in all the Civil Revision Petitions.

4. The learned counsel who appeared for the impleading petitioners would state that the sole respondent died on 15.06.2016 and they came to know about the death of the sole respondent only in August 2019. Thereafter, the petitioners tried to contact the counsel for the respondent to ascertain the legal heirs of the deceased sole respondent and as the counsel



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who appeared for the sole respondent had given change of vakalat, he was not able to furnish the details of the legal heirs of the sole respondent and thereafter, the petitioners sent legal notice to one of the legal heirs, viz. Dhanalakshmi, to furnish the details of legal heirs of the sole respondent. Hence, the delay of 1430 days had occurred and the same is neither wilful nor wanton.

5. The learned counsel for the respondent would specifically state that the petitioners are aware of the death of the sole respondent on the date of her death itself and within few days of her death, the petitioners insisted to sell the property to them saying that the first respondent promised to sell the property to them. The respondent vehemently opposed for allowing the petitions stating that the delay of four years cannot be condoned without sufficient reason. In support of his contentions, he relied on the judgment of the Apex Court in **Balwant Singh [Dead] Vs. Jagdish Singh and others** reported in **[2010] 8 Supreme Court Cases 685** and hence prayed for dismissal of these petitions.

6. Admittedly, the sole respondent died on 15.06.2016. The specific



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contention of the petitioners is that they have no knowledge about the death of the sole respondent till August 2019. But, as per the contention of the impleading respondents, the petitioners have knowledge about the death of the sole respondent on the date of her death itself and thereafter, the petitioners had insisted the legal heirs of the sole respondent to sell to the property to them as promised by the sole respondent. If it is so, the petitioners having slept over for more than 4 years, cannot now file the petition to condone the enormous delay of 1430 days to the implead the legal representatives of the legal heirs of the sole respondent. The petitioners have not come forward with sufficient reason to condone such a huge delay of 1430 days. As per the averments in the affidavit filed in support of the petitions, the petitioners came to know about the death of the sole respondent in the years 2018 and the petitioners have not taken any steps to implead the legal heirs of the sole respondent immediately thereafter and the petitions to implead the legal heirs of the sole respondent has been filed only in the year 2020. As per the law laid down by the Apex Court each and every day delay has to be explained with sufficient reason. In the judgment in **Balwant Singh [Dead] Vs. Jagdish Singh and others**



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reported in **[2010] 8 Supreme Court Cases 685**, the Honourable Apex

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Court has held as follows :

"(i) The words "sufficient cause for not making the application within the period of limitation" should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case, and the type of case. The words 'sufficient cause' in [Section 5](#) of the Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the appellant."

(ii) In considering the reasons for condonation of delay, the courts are more liberal with reference to applications for setting aside abatement, than other cases. While the court will have to keep in view that a valuable right accrues to the legal representatives of the deceased respondent when the appeal abates, it will not punish an appellant with foreclosure of the appeal, for unintended lapses. The courts tend to set aside abatement and decided the matter on merits. The courts tend to set aside abatement and decide the matter on merits, rather than terminate the appeal on the ground of abatement.

(iii) The decisive factor in condonation of delay, is not the



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length of delay, but sufficiency of a satisfactory explanation.

(iv) The extent or degree of leniency to be shown by a court depends on the nature of application and facts and circumstances of the case. For example, courts view delays in making applications in a pending appeal more leniently than delays in the institution of an appeal. The courts view applications relating to lawyer's lapses more leniently than applications relating to litigant's lapses. The classic example is the difference in approach of courts to applications for condonation of delay in filing an appeal and applications for condonation of delay in re-filing the appeal after rectification of defects.

(v) Want of "diligence" or "inaction" can be attributed to an appellant only when something required to be done by him, is not done. When nothing is required to be done, courts do not expect the appellant to be diligent. Where an appeal is admitted by the High Court and is not expected to be listed for final hearing for a few years, an appellant is not expected to visit the court or his lawyer every few weeks to ascertain the position nor keep checking whether the contesting respondent is alive. He merely awaits the call or information from his counsel about the listing of the appeal.

We may also notice here that this judgment had been



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followed with approval by an equi-bench of this Court in the case of Katari Suryanarayana (supra)

Above are the principles which should control the exercise of judicial discretion vested in the Court under these provisions. The explained delay should be clearly understood in contradistinction to inordinate unexplained delay. Delay is just one of the ingredients which has to be considered by the Court. In addition to this, the Court must also take into account the conduct of the parties, bona fide reasons for condonation of delay and whether such delay could easily be avoided by the applicant acting with normal care and caution. The statutory provisions mandate that applications for condonation of delay and applications belatedly filed beyond the prescribed period of limitation for bringing the legal representatives on record, should be rejected unless sufficient cause is shown for condonation of delay. The larger benches as well as equi-benches of this Court have consistently followed these principles and have either allowed or declined to condone the delay in filing such applications. Thus, it is the requirement of law that these applications cannot be allowed as a matter of right and even in a routine manner. An applicant must essentially satisfy the above stated ingredients; then alone the Court would be inclined to condone the delay in the filing of such applications.”

7. In the present case also, there is no sufficient cause to condone the



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enormous delay of 1430 days. The statutory provisions mandate that applications for condonation of delay and applications belatedly filed beyond the prescribed period of limitation for bringing the legal representatives on record have to be rejected unless sufficient cause is shown for condonation of delay and the applications cannot be allowed as a matter of right and even in a routine manner.

8. Accordingly the Civil Miscellaneous petitions in C.M.P.Nos.11735, 11737, 11738 of 2013, 11687, 11691, 11695, 11688, 11690, 11693, 11696, 11689 & 11694 of 2020 are dismissed. In view of dismissal of the above miscellaneous petitions, the Civil Revision Petitions in CRP.Nos. 3563, 3564, 3565 and 3566 of 2013 and Civil Miscellaneous Petitions Nos.2581, 5125, 5127 and 5128 of 2022 are also dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

28.04.2022

vrc



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Index:yes/no

Internet:yes

To

1. The Rent Controller Appellate Authority,
VIII Small Causes Court, Chennai

2. The Rent Controller,
X Small Causes Court, Chennai



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J.NISHA BANU, J.

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