



CRP (NPD) Nos.2876, 2877 and 2843 of 2021
& CMP Nos.20775, 20784 and 20614 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 15.06.2022

Delivered on : 14.07.2022
CORAM:

THE HONOURABLE MRS. JUSTICE S. KANNAMMAL

CRP (NPD) Nos. 2876, 2877 and 2843 of 2021
and
CMP Nos.20775, 20784 and 20614 of 2021

T.K. Bani
Proprietor Pranav Enterprises,
S/o.late.Thirunavukarasu,
No.30/1, North Wall Street,
Kontithope,
Chennai – 600 079.
CRPs

... Petitioner in all

Versus

N.Maheswaran

... Respondent in all CRPs

Common Prayer: Civil Revision petitions filed under Article 227 of Constitution of India, praying to set aside the order, dated 08.10.2021 in M.P.Nos.2, 3 and 4 of 2021 in R.L.T.O.P. No.195 of 2020 by the XII Small Causes Court, Chennai – 600 104.

For Petitioner : Ms. S. Tamizharasi
in all the Revision Petitions

For Respondent : Mr. M. Murali
in all the Revision Petitions



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COMMON ORDER

The Revision petitioner is the tenant and the respondent is the landlord. The present Civil Revision Petitions are filed as against the order dated 08.10.2021 passed in MP. Nos. 2, 3 and 4 of 2021 in RLTOP No. 195 of 2020.

2. The respondent-landlord has filed RLTOP No.195 of 2020 before the XII Small Causes Court, Chennai under Sections 21 (2) (a), 21 (2) (b) and 21 (2) (g) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, for repossession of the tenanted premises on the ground of failure to enter into an agreement in writing as per Section 4 (2) of the Act, default in payment of rent and own use and occupation.

3. In the Original Petition, notice was ordered to the revision petitioner/tenant. However, he did not turn up and contest the petition. Therefore, an exparte order dated 05.04.2021 was passed in RLTOP No.195 of 2020. To execute the exparte decree, the respondent-landlord, has also filed E.P. No. 511 of 2021 in RLTOP No.195 of 2020. Thereafter, the revision petitioner/tenant has filed the following three Miscellaneous petitions for the reliefs as mentioned below:



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- i. MP No.2 of 2021 to condone the delay of 114 days in filing the petition to set aside the exparte order, dated 05.04.2021
- ii. MP No.3 of 2021 to set aside the exparte order, dated 05.04.2021
- iii. MP No.4 of 2021 for grant of interim stay of all further proceedings in EP No.511 of 2021 in RLTOP No.195 of 2020, till the disposal of MP No.3 of 2021.

4. All these petitions were dismissed by the Court below on 08.10.2021 on the ground that the reasons adduced by the petitioner/tenant are not satisfactory to condone the delay. Aggrieved by the order dated 08.10.2021, the present Civil Revision petitions are filed.

5. The learned counsel for the Revision Petitioner/tenant would submit that RLTOP No.195 of 2020 was filed by the respondent-landlord for eviction of the tenant on various grounds. According to him, notice was issued to the Revision Petitioner/tenant and the Original Petition was taken up for hearing twice on 14.12.2020 and 19.03.2021. Thereafter, the Court below has passed the order allowing the Original petition exparte. The learned counsel would further submit that the reasons assigned for the delay in filing the application is that the revision petitioner met with an accident on 31.12.2020



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and suffered bone fracture. It is also stated that initially he was admitted in Murugan Hospitals, Chennai and thereafter he had taken treatment in A.K.N. Nursing Home, Chennai. During Hospitalization, the Revision Petitioner contacted his friend by name Siva Rajasekaran, who informed the petitioner about the summons received in RLTOP No.195 of 2020 and the requirement of the petitioner to appear before the Court on 11.01.2021. It is also stated that his friend assured the revision petitioner to engage an advocate on his behalf and to contest the original petition. Therefore, the petitioner did not enquire as to the status of the case from his friend for sometime. However, when he contacted his friend, he informed that M/s.Doss and Vishwa Associates have been engaged on his behalf to contest the Original Petition. At this stage, the petitioner received summons in EP No. 511 of 2021 and came to know about the exparte order, dated 05.04.2021. According to the learned counsel for the revision petitioner, the delay in not contesting the original petition is neither wilful nor wanton. The petitioner could not appear before the court below due to the injuries suffered in the motor accident that took place on 31.12.2012. The petitioner was under the impression that his friend would take care of the case on his behalf. Even though it was represented that an advocate was engaged, yet, the Original Petition was ordered exparte. He further submitted that the Original petition was listed for hearing only twice and on the date of



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third hearing, for non appearance of the revision petitioner, an exparte order was passed and immediately thereafter the respondent/landlord has filed the E.P.No.511 of 2021 to execute the exparte decree. The learned counsel would further submit that without affording sufficient and adequate opportunity to the Revision Petitioner to defend the Original Petition, the trial Court summarily rejected the petitions filed by him for condonation of delay. The delay in filing the petition is not inordinate besides the petitioner is ready to extend his fullest cooperation for expeditious disposal of the Original Petition. The learned counsel would therefore plead that an opportunity shall be given to the Revision Petitioner to contest the Original Petition on merits.

6. The Revision Petitions were vehemently opposed by Mr.M.Murali, learned counsel for the respondent/landlord. According to him, the petitioner was not bonafide in contesting the original petition. It is not the case of the revision petitioner that he was not aware of the filing of the Original petition at all. Even though he claims to have engaged an advocate on his behalf, none appeared on behalf of the Revision petitioner on 08.10.2021. Therefore, the trial Court is fully justified in passing an exparte order and consequently dismissing the application for condonation of delay and to set aside the exparte order dated 08.10.2021. It is also stated that the Revision petitioner is



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occupying the property in question without entering into an agreement or by paying the statutory rent. Therefore, the order of dismissal passed by the trial Court is proper. He therefore prayed for dismissal of these Civil Revision Petitions.

7. I have heard the learned counsel appearing on either side and perused the materials available on record.

8. At the outset it is to be stated that the Original Petition has been filed by invoking Sections 21 (2) (a), 21 (2)(b) and 21 (2) (g) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act. This Court is oblivious of the fact that in these Civil Revision Petitions, the correctness or otherwise of the order passed by the Court below in MP Nos.2, 3 and 4 of 2021 alone is dealt with. This Court is not dealing with the maintainability or applicability of the new Act in the proceedings initiated by the respondent/landlord.

9. It is well settled that the reasons assigned for condonation of delay alone is the criteria and not the length of delay. This is repeatedly adopted by the Constitutional Court from time to time to ensure that a genuine litigant is



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not ousted from contesting the proceedings initiated against him. However, for this purpose, it has to be decided as to whether such a litigant has come forward to the Court with clean hands and the reasons assigned by him are plausible for being considered. If these parameters are applied in present case, this Court is of the considered view that the original petition was filed in the year 2020 and it was listed for hearing twice and on the third occasion, for non appearance of the Revision petitioner/defendant, ex parte order was passed. Swiftly thereafter, the respondent/landlord has capitalized the situation and filed the execution proceedings against the revision petitioner. Thus, there was no adequate opportunity given to the revision petitioner/tenant to contest the original petition.

10. Yet another factor for consideration is that on going through the pleadings in the original petition, the respondent/landlord would submit that the tenant is in arrears of rent atleast for a period of two years. On the other hand, the revision petitioner/tenant in the grounds of revision has stated that he has paid rent up to July 2021 and he will also continue the rent to the landlord. It is also seen that the property in question was originally let out to the father of the revision petitioner herein by name Thirunavukarasu who was inducted as a tenant by the grandfather of the present landlord by name N.Mageswaran. It



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is also seen that he was inducted as a tenant even during the year 1955. So far a very long time, the Revision petitioner and his predecessor were in possession and occupation of the demised premises where the Revision petitioner is carrying on business. This is one of the factors which requires consideration in this case. In this context, in paragraph No.6 of the ground of the present revision petition, it is stated as follows:

6.The petitioner is regular in payment of rent to be paid on or before 10th of every month. But the Respondent is not in the habit of issuing the rental receipts. A sum of Rs.500/- was paid as an advance by my father to the landlady. My father up to the day of his death in the year 1984, was doing the business of manufacturing EverSilver vessels. After his death the petitioner continued and carried-out the said manufacturing business of Eversilver buckets, and drums etc under the name and style of Pranav Enterprises for the past 37 years.

11. The learned counsel appearing for the respondent/landlord would submit that the petitioner/tenant has come out with the false plea as if rent was paid to the mother of the landlady by name Vijayalakshmi and after her demise, rent is being paid by the Revision petitioner to the respondent. However, the counsel for the respondent vehemently submitted that Vijayalakshmi, who is the mother of the landlord is still alive and therefore the



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averment that Vijayalakshmi died is wholly untrue. This Court is not inclined to venture into such issues. The fact remains that for the purpose of condoning the delay of 114 days, the revision petitioner has come out with reasons which are *prima facie* requires to be accepted. At the same time, taking note of the inconvenience that had caused to the respondent/landlord, this Court is of the view that the revision petitions are liable to be allowed subject to payment of costs.

12. Accordingly, the order, dated 08.10.2021 passed in M.P. Nos. 2, 3 and 4 of 2021 in R.L.T.O.P. No.195 of 2020 on the file of XII Small Causes Court, Chennai – 600 104 stands set aside. The Civil Revision petitions are allowed with costs of Rs.10,000/- (Rupees Ten Thousand only) payable by the revision petitioner/tenant to the respondent/landlord within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

13. For reporting compliance after three weeks.

14.07.2022

vum

Index: Yes/No

Speaking order / Non speaking order

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S. KANNAMMAL, J.

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To:

The XII Small Causes Court,
Chennai – 600 104.

Pre delivery Order in
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