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C.R.P.No. 4107 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No. 4107 of 2022

1. H. Kushal Chand Shiyal
2. K. Oormilashiyal
3. K. Anil Kumar Shiyal
4. K. Kamal Chand Shiyal
5. K. Vimal Kumar Shiyal

... Petitioners

Vs

R. Prem Sagar

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned VII Judge, Small Causes of Court, Chennai to dispose of the RCA.No. 87 of 2022 in RCOP No. 934 of 2017.

For Petitioners : Mr. E. Prabu

ORDER

The civil revision petition is filed seeking a direction to direct the VII Judge, Small Causes Court, Chennai to dispose of RCA No. 87 of 2022 in RCOP No. 934 of 2017.



2. Learned counsel for the petitioners states that the landlord filed RCOP No. 934 of 2017 for eviction and the Rent Control OP was allowed in favour of the landlord. The respondent tenant filed an appeal in RCA No. 87 of 2022.

3. The grievances of the petitioners are that the appeal procedures were concluded and the matter was posted for arguments on 28.09.2022, on that day, the landlord side was ready to proceed with the arguments and conclude the same. However, the respondent's counsel took time for arguments. Again the matter was listed on 14.11.2022 for arguments and the counsel for the respondent tenant was absent before the RCA court. Since the appellant called absent, the matter was once again posted for arguments on 09.01.2023.

4. Learned counsel for the petitioners states that, at the argument stage itself, the matter is being adjourned to several months, which is causing prejudice to the interest of the landlord as he is unable to deal with his property.

5. Article 300 A of the Constitution of India enumerates that *"No person shall be deprived of his property save by the authority of*



law". Thus the property right is a constitutional right and no citizen can be deprived of the same by authority of law.

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6. The law dealing with tenancyship, with reference to the constitutional rights must be dealt with effectively so as to ensure that the constitutional rights of the citizen are protected. In the event of any insufficiency in implementing the tenancy laws, the same will result in infringement of the constitutional right of a citizen. Thus the Rent Authority, Rent Court and Rent Tribunals are bound to borne in mind the rights of the parties and accordingly deal with the matter as expeditiously as possible and as stipulated under the provisions of the Act. Under the new Act, time limit is prescribed. However under the old Act, there was no such time limit. However a reasonable time is the criteria which is to be adopted by the Courts for the purpose of disposal of the rent control matter. Rent control proceedings are summary proceedings and therefore prolongation and protraction of the issues at no circumstances be encouraged.

7. The legal brains are adopting tactical methods to prolong the matters and to increase the longevity of the litigation for unjust gains. Such idea if any traced out by the Court must be thwarted without aiding it. Thus the courts are expected to be vigilant while granting



adjournments and dispose of the matters without granting unnecessary adjournments on flimsy grounds. If at all there was no appearance on the part of either of the parties, one opportunity is to be granted and the matter is to be listed within a short span of time and again if the parties remain absent, the courts are bound to proceed ex-parte. If at all any petition for restoration is filed, exemplary or maximum costs are to be awarded so as to ensure that such practices of delay tactics has been stopped forthwith by the Courts. Any leniency in this regard, will result in undue advantage to either of the parties, which will cause prejudice to one of the party. Thus the courts cannot grant adjournments in a routine manner.

8. In the present case, on two occasions, the matter was listed for arguments. On both the occasions, the counsel for the appellant remained absent. Even thereafter, the matter was listed for arguments, by that time, three months lapsed. Such a long time is unreasonable and even in such circumstances, courts are bound to grant adjournments for a shorter duration, long adjournments in summary proceedings are certainly not desirable.

9. Regarding grant of adjournments, this court has laid down the principles in the case of ***Samba Vaidyanathan vs Raja Rama***



Varma in C.R.P.(PD) No.3429 of 2018 dated 08.11.2018 and the relevant paragraphs are extracted hereunder:

"17. ...it is a matter within the discretion of the Court to allow an adjournment and such a discretionary order is, ordinarily, not a matter for the consideration of this Court in an appeal under [Article 136](#) of the Constitution. The petition for special leave did not mention this contention among the grounds of appeal. No special reasons exist for our entering into this contention. The order under appeal gives adequate reasons for rejecting the application for adjournment."

From the aforesaid discussion, it can safely be concluded that even prior to amendments in [the Code](#) of Civil Procedure in 1976, 1999 and 2002, the provision for adjournment has been seriously taken note of in [the Codes](#) of 1882 and 1908 and the Courts also has given strict interpretation to the provisions for adjournment.

In the year 1976 certain amendments were made in [the Code](#) of Civil Procedure, deleting some of the existing provisions and substituting with new provisions, with the object of not only reducing the pendency, but also providing speedy trial of the Civil Suits and other proceedings. But those amendments did not give adequate results."

10. The amended provisions clearly stipulates that

1. It is not enough if a cause is shown for adjournments, but it must be a sufficient cause.
2. The number of adjournments is limited to three, the exception being the circumstances beyond the control of the party.



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3. While adjourning the case, Court cannot do it indefinitely, but must fix the next date of hearing.

4. Adjournment is not automatic and the Court is bound to make the orders as to cost occasioned by the adjournments.

5. Court is also empowered to make higher cost as the Court deem fit apart from the cost occasioned by the adjournments."

10. In view of the facts and circumstances, the VII Judge, Small Causes Court, Chennai is directed to dispose of RCA. No. 87 of 2022 within a period of one month from the date of receipt of a copy of this order. The Civil Revision Petition stands allowed. No costs.

12.12.2022

Index : Yes / No
Speaking order / Non-Speaking order
mrn

To
The VII Judge, Small Causes of Court,
Chennai



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S.M.SUBRAMANIAM, J.

mrn

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