



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) No.150 of 2022

and

C.M.P. (MD) No.651 of 2022

Janakan .. Petitioner/Respondent/
Landlord/Petitioner

-vs-

S.Rafi Ahamed .. Respondent/Petitioner/
Tenant/Respondent

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 26.11.2021 made in I.A.No.11 of 2021 in R.C.O.P.No.7 of 2020 on the file of the Principal District Munsif Court, Thirumangalam, Madurai District.

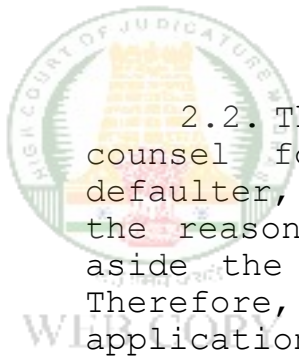
For Petitioner : Mr.C.Jeyaprakash

ORDER

The Landlord is the revision petitioner before this Court challenging the order dated 26.11.2021, in and by which, the learned Rent Controller (District Munsif), Thirumangalam, allowed the application filed by the tenant under Order IX Rule 7 of the Civil Procedure Code in I.A.No.11 of 2021 in R.C.O.P.No.7 of 2020 setting aside the ex-parte order dated 05.01.2021.

2. The brief facts are as follows:-

2.1. The revision petitioner/Landlord had filed R.C.O.P.No.7 of 2020 on the file of the learned District Munsif, Thirumangalam, for evicting the respondent/tenant on the ground of wilful default. It appears that the respondent had not appeared on 05.01.2021 when the matter was posted for his appearance. Therefore, he was set ex-parte. Thereafter, the respondent/tenant has filed the impugned application for setting aside the ex-parte order dated 05.01.2021. This application was filed on 31.03.2021. The said application has been allowed despite the objections of the Landlord. Thus, aggrieved, the landlord is before this Court.



2.2. The only grievance, which has been stated by the learned counsel for the Landlord, was that the tenant is a chronic defaulter, who has not regularised his rental arrears. That apart, the reason given in the affidavit to the application for setting aside the ex-parte order has not been proved by the respondent. Therefore, the learned Rent Controller ought not to have allowed the application.

3. Heard the learned counsel for the petitioner.

4. The Rent Control Petition was posted on 05.01.2021 for the appearance of the respondent/tenant. On the said date, he had not appeared and therefore, he was set ex-parte on the very same day. In the application filed in support of the application to set aside the ex-parte order, the respondent/tenant has stated that he was suffering from some ailments and owing to his old age, he was not immediately in a position to appear before the Court. The non-appearance was only for the aforesaid reasons and was neither deliberate nor intentional. The application for setting aside the ex-parte order has been filed within a period of less than three months. The respondent has shown sufficient cause, which has been taken note of by the learned Rent Controller. Therefore, the learned Rent Controller (District Munsif), Thirumangalam, had decided to allow the application and I do not find any reason to disagree with the reasoned order. Therefore, this Civil Revision Petition is dismissed and the order dated 26.11.2021 made in I.A.No.11 of 2021 in R.C.O.P.No.7 of 2020 stands confirmed. The learned Judge is directed to dispose of R.C.O.P.No.7 of 2020 on or before 31.07.2022 taking into account the fact that the petitioner has made a submission that the respondent/tenant continues to be in arrears of rents. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

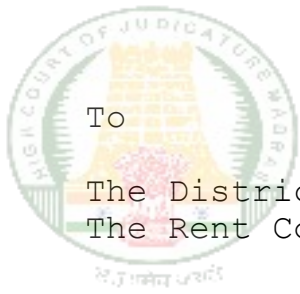
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Sub Assistant Registrar(CS)

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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

The District Munsif,
The Rent Controller, Thirumangalam.

C.R.P. (PD) (MD) No.150 of 2022

Dated: 02.02.2022

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