



WEB COPY



CMP (MD) .No.1427 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/12/2022

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CMP (MD) .No.1427 of 2020
in
REV.APLC (MD) No.SR6853 of 2020
and
REV.APLC (MD) No.SR6853 of 2020

M.Zakir Hussain

... Petitioner

Vs

1.V.R.Rajendran

2.R.Inbavalli

... Respondents

PRAYER in CMP (MD) No.1427 of 2020 :- Petition filed under Section 5 of the Limitation Act to condone the delay of 314 days in preferring the review application.

PRAYER in REV.APLC (MD) No.SR6853 of 2020 :- Petition filed under Order 47 Rule 1 CPC to review the order passed by this Court in CRP (MD) No.378 of 2019 dated 25.02.2019.



WEB COPY



CMP (MD) .No.1427 of 2020

For Petitioner :Mr.J.Lawrance

ORDER

This civil miscellaneous petition is filed to condone the delay of 314 days in preferring the review application as against the order passed by this Court in CRP(MD)No.378 of 2019, dated 25.02.2019.

2.Facts of the case:-

2.1.The petitioner claims that he is a tenant under one Chinnasamy Pillai from the year 1998. The respondents herein said to have purchased the property from the son of Chinnasamy Pillai on 18.03.2004, have filed a petition for eviction in RCOP.No.14 of 2010 before the Rent Controller cum Principal District Munsif, Dindigul, on the ground of wilful default. Even before that, the petitioner has filed a suit in O.S.No.152 of 2006 before the II Additional District Munsif Court, Dindigul, for the relief of permanent injunction restraining the respondents from evicting him from the property without following due process of law.



WEB COPY

2.2.The respondents along with the rent control original petition, have also filed an interlocutory application in I.A.No.2 of 2015 under Section 11(4) of the Tamil Nadu Building (Lease and Rent Control) Act that the petitioner is in arrears of rent to an extent of Rs.8,05,000/-. The Rent Controller, by order dated 12.07.2016, directed the petitioner to deposit a sum of Rs.1,15,000/- on or before 11.08.2016. The petitioner failed to deposit the amount as directed in I.A.No.2 of 2015 and there was no representation on behalf of the petitioner on 11.08.2016. Therefore, the Rent Controller allowed RCOP.No.14 of 2010 and ordered for eviction.

2.3.Aggrieved over the same, the petitioner has preferred an appeal before the Rent Control Appellate Authority along with an interlocutory application in I.A.No.22 of 2017 for condoning the delay of 439 days in preferring the appeal. The Appellate Authority, not satisfied with the reasons assigned for the delay of 439 days in preferring the appeal, dismissed the interlocutory application on 25.09.2018.



WEB COPY

2.4.Challenging this order, the petitioner has preferred CRP(MD)No.378 of 2019 and this Court, by order dated 25.02.2019, directed the petitioner to deposit the entire arrears amount of Rs.8,05,000/- within a period of three months, failing which, the civil revision petition shall stand automatically dismissed. The petitioner failed to comply with this order, however, filed this review application with a delay of 314 days, on the ground that the arrears amount ordered by the Rent Controller was Rs.1,15,000/-, whereas, this Court has wrongly recorded that the arrears amount as Rs.8,05,000/-.

3.Learned Counsel for the petitioner submitted that the observation made by this Court as regards the arrears amount is not correct and therefore, he has circulated a letter to the Registry on 26.06.2019 to list the matter under the caption 'for being mentioned'. The Registry has not acted upon the same and therefore, this review application was filed on 03.02.2020 with a delay of 314 days.



4.He further submitted that after the order dated 25.02.2019 passed by this Court, the petitioner applied for certified copy and after knowing about this order, he has also approached his Counsel to rectify the same. The learned Counsel has also taken some steps and also circulated a letter dated 26.06.2019 requesting the Registry to list the revision petition under the caption 'for being mentioned'. In the meanwhile, the revision petition was listed for reporting compliance and during the hearing, he has also pointed out the same and on the advise of the Court, the review application is filed with a delay of 314 days.

5.This Court paid it's anxious consideration to the submissions made by the petitioner's Counsel and also perused the available materials.

6.The rent control original petition was filed in the year 2010 for evicting the petitioner. Along with this petition, an interlocutory application was also filed on 24.03.2014 under Section 11(4) of the Tamil Nadu Building (Lease and Rent Control) Act. In that application, the



Rent Controller has passed an order directing the petitioner / tenant to pay the arrears amount on or before 11.08.2016. Neither the petitioner nor his Counsel appeared before the Rent Controller on 11.08.2016 and no steps were taken by them to pay the arrears amount as directed by the Rent Controller. Therefore, the rent control original petition came to be dismissed and an order of eviction was passed on 11.08.2016.

7.This order of eviction was challenged by the petitioner before the Rent Control Appellate Authority with a delay of 439 days, stating that the petitioner was taking some treatment at Kerala and therefore, he could not file the appeal in time. However, no material was placed to substantiate the same and therefore, not satisfied with the reasons assigned, the Appellate Authority has dismissed the interlocutory application in I.A.No.22 of 2017 filed to condone the delay in preferring the appeal.

8.As against this order, the petitioner preferred CRP (MD) No.378 of 2019 before this Court. While



entertaining the revision petition on 25.02.2019, this Court has directed the petitioner to deposit the arrears amount of Rs.8,05,000/-. The relevant portion from the said order is extracted as under:-

"5.Now the petitioner placed the same reason before this Court that the delay occurred neither one nor negligent since he was deprived on the status and now, the petitioner undertakes that he is ready to deposit the entire arrears of rent, in which the Rent Control Appellate Authority directed the petitioner to deposit the arrears amount of Rs.8,05,000/-."

9.The petitioner has now preferred this application that the arrears amount has been mistakenly recorded as Rs.8,05,000/-. Admittedly, the review application is filed with a delay of 314 days. It appears that even after the order dated 25.02.2019 directing the petitioner to deposit the arrears amount of Rs.8,05,000/-, the civil revision petition was listed for compliance before the same Court for several hearings and this petitioner, by simply giving a letter to the Registry for listing the matter under the caption 'for being mentioned' on 26.06.2019, kept quite till 03.02.2020. Therefore, the reasonings offered by the



CMP (MD) .No.1427 of 2020

petitioner for the delay is not acceptable. It also appears that the civil revision petition was entertained and the order dated 25.02.2019 was passed based on the undertaking given by the petitioner. This Court is therefore not satisfied with the reasons offered by the petitioner for condoning the delay.

Accordingly, this civil miscellaneous petition stands dismissed. Consequently, the review application which is in SR stage stands rejected.

02.12.2022

gk



WEB COPY



CMP (MD) .No.1427 of 2020

B. PUGALENDHI , J

gk

ORDER
IN
CMP (MD) .No.1427 of 2020
in
REV.APLC (MD) No.SR6853 of 2020
and
REV.APLC (MD) No.SR6853 of 2020

02/12/2022