



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Tuesday, the Sixteenth day of August Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CMP(MD) . No.4710 of 2022

in

CRP(MD)No.1763 of 2021

1,E.P. Murugan,
2.Shanmugavadivoo
3.M.Muthukumar
4. M.Lekshmi
5.M.Vigneswaran

...petitioners

-Vs-

1 P. Vallinayagam,
2 P. Murugan,
3 P. Nallasivam @ Ganesan,
4 A.K. Mahirudheen,

... Respondents

Prayer in CMP(MD)No.4710 of 2022;-

This Civil Miscellaneous petition filed under Section 148 r/w Section 151 C.P.C.to extend the time granted by this Honourable Court by order dated 22.12.2021 in C.R.P. (MD). No. 1763 of 2021 for vacating the petition permits in R.C.O.P. No. 2 of 2005 on the file of Learned Rent Controller (Principal District Munsif Court), Nagercoil for another six months i.e. till 15.12.2022 to vacate the premises which is the subject matter of the above Civil Revision Petition in C.R.P. (MD) No. 1763 of 2021 and pass such further or other orders, as this Honourable Court may deems fit and proper in the circumstances of the case thus render justice.

Prayer in CRP(MD)No.1763 of 2021:-

This civil Revision Petition is filed under Section 25 of the TamilNadu Buildings (Lease and Rent Control)Act,180/1960 as amended by Tamil Nadu Act 23/1973,to set aside the fair and decreetal order dated 12.11.2018 passed in RCA.No.3 of 2018 on the file of the learned Principal Subordinate Judge, Nagercoil,confirming the fair and decreetal order dated 15.12.2018 passed in RCOP No. 2 of 2005 on the file of the Rent Controller(Principal District Munsif Court) Nagercoil.

<https://www.cer.gov.in/jud> ORDER in this Civil Miscellaneous Petition coming on for orders on



this day and upon perusing the petition and the affidavit in support thereof and the order dated 22.12.2021, 28.06.2022 and upon hearing the arguments of Mr. M.P. Senthil, Advocate for the Petitioner and of Mr. S.Ramesh, Advocate for the respondents, this Court made the following order:

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This Court on 28.06.2022 passed the following order:

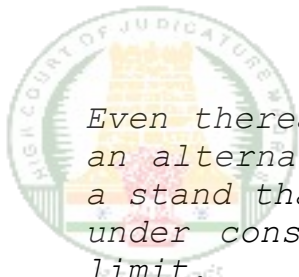
"This civil miscellaneous petition is filed for extending the time granted by this Court for vacating the petition premises, while dismissing the civil revision petition in CRP(MD)No.1763 of 2021, dated 22.12.2021.

2.The petitioner is a tenant and running a sweet stall in the schedule building from the year 1977. The respondents / landlord filed a petition for eviction in RCOP.No.2 of 2005 before the Rent Controller / I Additional District Munsif Court, Nagercoil. The same was decreed on 15.02.2008. The appeal filed by the petitioner in RCA.No.3 of 2018 was dismissed by order dated 12.11.2018. As against the orders of the Courts below, the petitioner preferred CRP(MD) No.1763 of 2021 before this Court and the same was also dismissed vide order dated 22.12.2021. While dismissing the civil revision petition, this Court granted liberty to the petitioner to vacate the premises and hand over the possession on or before 30.06.2022. This time was granted by the Court based on the undertaking affidavit filed by the petitioner. Now the petitioner has come forward with this application that he has found an alternative place, but the construction is yet to be completed and therefore, request for extension of time for a period of six months.

3.Learned Counsel for the respondents / landlord vehemently opposed the petition stating that the Rent Control proceedings initiated in the year 2005 was dragged on till 2018 and even while dismissing CRP(MD)No.1763 of 2021, this Court has granted time based on the undertaking affidavit filed by the petitioner. The petitioner is aware that he has to vacate the premises on or before 30.06.2022. Having filed the undertaking affidavit and obtained some benefits before this Court, the subsequent petition for extension of time cannot be maintained.

4.This Court considered the rival submissions and also perused the available materials.

5.The petitioner is doing a business by running a sweet stall in the suit schedule property from the year 1997 and it is his only source of income. The petitioner has lost his case in all the proceedings, however, this Court has granted him time for vacating the premises till 30.06.2022, based on his undertaking affidavit.



Even thereafter, the petitioner has not taken any steps to it an alternative place immediately. However, the petitioner is taking a stand that the alternative building preferred by the petitioner is under construction and therefore, requests for extending the time limit.

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6. Though this Court is not inclined to entertain this application, considering the fact that this petitioner is not having any alternative place to shift the shop immediately, this Court, on humanitarian grounds, extends the time till 11.08.2022, as a last chance. It is made clear that the petitioner has to make his arrangements within the extended time limit and under no circumstances, the time limit would be extended. The petitioner has to vacate the premises on or before 11.08.2022 and hand over the possession to the respondents / landlord.

7. The civil miscellaneous petition is ordered accordingly. Post the matter for compliance on **16.08.2022.**"

2. Accordingly, this petition is listed today. When this petition is taken up for hearing, the learned Counsel for the petitioners submitted that the petitioners have handed over the possession to the respondents. However, the learned Counsel for the respondents submits that though possession has been handed over, the arrears of rent has not been paid. In reply, the learned Counsel for the petitioners submits that the arrears of rent has already been deposited in RCOP.No.44 of 2003 before the Additional District Munsif Court, Nagercoil.

3. The above submission made on either side is recorded and the respondents are permitted to withdraw the arrears of amount deposited by the petitioners.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/09/2022

Sub Assistant Registrar(CS)

TO:

- 1) The Principal Subordinate Judge,
Nagercoil.
- 2) The I Additional District Munsif,
(Rent Controller), Nagercoil.



CMP(MD).



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Copy to:

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai

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ORDER DATED : 16/08/2022

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ORDER

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CMP(MD) . No.4710 of 2022

in

CRP(MD)No.1763 of 2021

Giving direction and etc.
as stated within.

SS(02/09/2022) 4P 4C