



WEB COPY

C.R.P.No.212 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.212 of 2023

and

C.M.P.No.1725 of 2023

P.J.Uma Maheswari

... Petitioner

Vs.

K.Thangaian

... Respondent

Prayer: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order dated 12.09.2022 in E.A.No.58 of 2020 in E.P.No.34 of 2019 in R.C.O.P.No.31 of 2012 on the file of the Principal District Munsif, Alandur and consequently allow the E.A.No.58 of 2020 in E.P.No.34 of 2019 in R.C.O.P.No.31 of 2012.

For Petitioner

: Mr.M.Thangadurai

ORDER

The civil revision petition is filed against the fair and decreetal order dated 12.09.2022 passed in E.A.No.58 of 2020 in E.P.No.34 of 2019 in R.C.O.P.No.31 of 2012.



WEB COPY

2. The revision petitioner is the judgment debtor / tenant and the respondent is the decree holder / landlord, who filed R.C.O.P.No.31 of 2012 for eviction on the ground for owner's occupation. The Rent Controller allowed the R.C.O.P and ordered for eviction. The revision petitioner preferred an Appeal in R.C.A.No.37 of 2021, which is pending. Meanwhile, the decree holder filed E.P.No.34 of 2019 and the Execution Court allowed the execution petition and delivery was ordered.

3. The grievance of the revision petitioner is that she had not participated in the execution proceedings, as summons were not served to her in the execution proceedings. Therefore, the Execution Petition was allowed exparte on 19.12.2019 and delivery was ordered in the year 2020. Subsequently, the revision petitioner / tenant filed E.A.No.58 of 2020 to condone the delay of of 312 days in E.P.No.34 of 2019, which was adjudicated by the Trial Court elaborately.

4. The findings of the Trial Court reveal that delivery was ordered in the main Execution Petition on 28.02.2020. The revision petitioner / judgment debtor was set exparte on 19.12.2019 itself. However, the revision petitioner /



judgment debtor kept quiet for a long time and allowed the Execution Court to pass order on delivery and at a later point of time came out with a petition to condone the delay of 312 days in filing a petition to set aside the exparte order dated 19.12.2019. Even after the exparte order, the main Execution Petition was allowed and delivery was ordered on 28.02.2020.

5. Considering the facts and circumstances, the E.A Court found that the revision petitioner / tenant has not come out with convincing reasons for the purpose of condoning the delay of 312 days in filing a petition to set aside the exparte order dated 19.12.2019.

6. Long delay cannot be condoned in a routine manner. Unconardonable delay cannot be condoned in the absence of any acceptable reasons. Reasons are life-line for condoning enormous delay in filing petitions. Thus, Court cannot condone such long delay in a mechanical manner. Law of Limitation is substantive. Condonation of delay is exceptional. Thus, based on insufficient or in-genuine reasons, such long delay cannot be condoned by the Courts, which would cause prejudice to the interest to the other parties.



WEB COPY

7. In the present case, the respondent / landlord filed a petition, which was allowed and the Appeal filed by the revision petitioner is pending and there is no stay. Meanwhile, the decree holder filed an execution petition and the revision petitioner / tenant was set exparte on 19.12.2019 and delivery was ordered in the main execution petition on 28.02.2020. Even after the delivery of possession the respondent / landlord is unable to take possession of the property from the revision petitioner tenant, which is unfortunate. The infective implementation of the decree will shake the faith of the system and the Courts are expected to enforce the decrees passed vigilantly and effectively.

8. The revision petitioner / tenant initiated steps to set aside the exparte order with a delay of 312 days and the Trial Court found that there is no material evidence or documents to substantiate the reasons and such unexplained delay cannot be condoned and consequently, the petition was dismissed.



WEB COPY

9. This Court do not find any infirmity in respect of the order passed by the E.A. Court and thus, the same is to be confirmed. Accordingly, the fair and decreetal order dated 12.09.2022 passed in E.A.No.58 of 2020 in E.P.No.34 of 2019 in R.C.O.P.No.31 of 2012 stands confirmed and consequently, the Civil Revision Petition in C.R.P.No.212 of 2023 is dismissed. No costs. Connected Miscellaneous Petition is also closed.

10. The revision petitioner / tenant is directed to vacate the subject premises and hand over the vacant possession to the respondent / landlord within a period of one month from today. Failing which the respondent / landlord is at liberty to evict the revision petitioner / tenant with the assistance of Jurisdictional Police and with the aid of the Court Bailiff.

01.02.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

The Judge,
Principal District Munsif,
Alandur.



WEB COPY

C.R.P.No.212 of



S.M.SUBRAMANIAM, J.

Jeni

C.R.P.No.212 of 2023

01.02.2023