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C.R.P.Nos.525 and 526 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2023

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.Nos.525 and 526 of 2023

and

C.M.P.Nos.4279 and 4290 of 2023

K.R.Sivadhesikan

.. Petitioner in both C.R.Ps

Versus

Ruckmani

.. Respondent in both C.R.Ps

Prayer in C.R.P.No.525 of 2023:- This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed by the Trial Court in I.A.No.4 of 2022 in R.C.O.P.No.106 of 2012 on the file of the Rent Controller and the I Additional District Munsif of Coimbatore dated 04.11.2022.

Prayer in C.R.P.No.526 of 2023:- This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed by the Trial Court in I.A.No.5 of 2022 in I.A.No.4 of 2022 in R.C.O.P.No.106 of 2012 on the file of the Rent Controller and the I Additional District Munsif of Coimbatore dated 15.12.2022.



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C.R.P.Nos.525 and 526 of 2023

For Petitioner
in both C.R.Ps : Mr.P.Parthipan

For Respondent
in both C.R.Ps : Mr.K.Govi Ganesan

COMMON ORDER

C.R.P.No.525 of 2023 has been filed against the order in I.A.No.4 of 2022 in R.C.O.P.No.106 of 2012 on the file of the Rent Controller and the I Additional District Munsif of Coimbatore dated 04.11.2022.

2. C.R.P.No.526 of 2023 has been filed against the order in I.A.No.5 of 2022 in I.A.No.4 of 2022 in R.C.O.P.No.106 of 2012 on the file of the Rent Controller and the I Additional District Munsif of Coimbatore dated 15.12.2022.

3. The petitioner has become tenant of a portion of the property comprised in Ganga Naidu Compound, Cowley Brown Road, R.S.Puram, Coimbatore – 641002 on lease from one Ganga Naidu. The said Ganga Naidu bequeathed the absolute rights in the said property to four sons of



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Venkitasamy Naidu, viz., Rajendran, Manoharan, Nagendran and

Ravichandran. The said Venkitasamy and his sons, viz., Ravichandran and

Manoharan, have died intestate and thereafter, the respondent, who is the

wife of the said Venkitasamy Naidu, is maintaining the said property. The

respondent claims that after the death of the said Ganga Naidu and

Venkitasamy Naidu, the rent was mutually revised and the petitioner

started paying the monthly rent of Rs.3,000/- to the petitioner within 7th

day of every English Calendar month. She further claims that the

petitioner has stopped paying the rents payable from the month of

September 2009 inspite of repeated demands made by her. Therefore, she

issued a legal notice dated 17.10.2011 demanding the petitioner to pay the

rents payable after deducting the advance amount of Rs.10,000/-. She also

claims that the respondent is in arrears of the monthly rents payable for the

months of September 2009 to February 2012 in total for 30 months

amounting to Rs.90,000/- and after deducting the advance amount of

Rs.10,000/- he is in arrears of a sum of Rs.80,000/- and hence, she has

filed the RCOP No.106 of 2012 for evicting the petitioner and directing to

vacate and deliver the vacant possession of the said property. During the

course of the trial, the petitioner has filed in I.A. Nos.1 and 2 of 2019 and



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the same were allowed by the Trial Court and as the direction in I.A.No.1

of 2019 was not complied, the examination of D.W.1 was concluded. At

that stage, the petitioner has filed I.A.No.3 of 2022 to open the

examination of the petitioner's side witness, which was allowed by order

dated 12.09.2022 passed by the Trial Court by taking into fact that though

the petitioner was absent on 11.11.2021, he had appeared on the

subsequent hearings, with the condition to pay the costs of Rs.2,000/- to

the respondent before the next hearing on 20.09.2022. The petitioner

claims to have admitted in the hospital, as he suffered from heart attack on

06.09.2022 and as he was advised to take rest till 30.11.2022, he could not

comply with the order passed by the Trial Court in I.A.No.3 of 2022 dated

12.09.2022. Therefore, he had filed I.A.No.4 of 2022 before the trial Court

to enlarge the time granted to pay the costs of Rs. 2,000/- in I.A. No. 3 of

2022, which was dismissed by highlighting that the reasons stated by the

petitioner does not satisfy the delay of 41 days and the delay clearly shows

the intention of the petitioner to prolong the litigation. Thereafter, the

petitioner had filed I.A.No.5 of 2022 to review the order dated 01.11.2022

in I.A.No.4 of 2022 and the same was dismissed by pointing out that the

petitioner has produced the medical certificate without discharge summary



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and review could not be entertained against the appealable orders. Hence, the petitioner has filed these civil revision petitions to set aside the orders in I.A.Nos.4 and 5 of 2022 passed by the trial Court.

4. The learned counsel for the petitioner submits that the petitioner is an aged person and due to his bad health condition alone, he could not meet his counsel and file I.A.No.4 of 2022 within the time limit. He further submits that the trial Court has failed to consider the valid reasons given by the petitioner for non complying with the conditions imposed by it. He further submits that there is no legal bar for the petitioner to file review before the trial Court, but the trial Court has erred in dismissing I.A.No.5 of 2022. Therefore, he prays to set aside the orders dated 15.12.2022 and 01.11.2022 in I.A.Nos.4 and 5 of 2022 passed by the trial Court.

5. The learned counsel for the respondent submits that though sufficient opportunity was granted to the petitioner, he has failed to comply with the condition imposed by the trial Court, which shows that the petitioner intended to prolong the litigation. He further submits that the



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trial Court has rightly held that as per Section 114 of CPC, review could be entertained only against non appealable orders. Hence, he prays that the orders dated 15.12.2022 and 01.11.2022 in I.A.Nos.4 and 5 of 2022 passed by the trial Court may be confirmed.

6. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials placed on record.

7. Though the petitioner had failed to comply with the condition imposed by the Trial Court, he had produced medical certificate, which shows that he was having some cardiac issue and admitted in G.Kuppuswamy Naidu Memorial Hospital, Coimbatore. Therefore, the petitioner could not appear before the trial Court for subjecting himself to cross examination. In such circumstances, this Court is of the view that in order to ensure compliance of the principles of natural justice, the cross examination of the petitioner shall be opened on or before 30.08.2023 and the same shall be completed within a period of one month from that date. The trial Court shall thereafter pass appropriate order in RCOP No. 106 of 2012 within a period of three months thereon.



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WEB COPY 8. In view of the above, these Civil Revision Petitions are disposed of. Consequently, the connected Miscellaneous Petitions are closed. No costs.

09.08.2023

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Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

To

1. The Rent Controller and the I Additional
District Munsif of Coimbatore.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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V.BHAVANI SUBBAROYAN,J.

Kv

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