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CRP Nos.1889, 1890, 1891 & 1894 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

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THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.Nos.1889, 1890, 1891 & 1894 of 2019
and CMP.Nos.12425, 12426, 12427 & 12432 of 2019

B.Harilal

..Petitioner in all CRPs

Vs.

Suresh Kumar

..Respondent in all CRPs

Common prayer: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, praying to set aside the order dated 18.03.2019 passed in RCA.Nos.499, 500, 497 and 495 of 2013 against M.P.Nos.409, 408, 410 and 411 of 2012 in M.P.Nos.149, 149, 131 and 131 of 2012 in RCOP.No.1235 of 2011 passed by the Appellate Authority namely the VIII Judge, Court of Small Causes, Chennai, confirming the order dated 04.09.2013 passed by the Rent Controller namely the X Judge, Court of Small Causes, Chennai, in M.P.Nos.409, 408, 410 and 411 of 2012 in M.P.Nos.149, 149, 131 and 131 of 2012 in RCOP.No.1235 of 2011.

(In all the petitions)

For Petitioner : No appearance

For Respondent : Mr.M.Sriram



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COMMON ORDER

These Civil Revision Petitions have been filed as against the order 18.03.2019 passed in RCA.Nos.499, 500, 497 and 495 of 2013 against M.P.Nos.409, 408, 410 and 411 of 2012 in M.P.Nos.149, 149, 131 and 131 of 2012 in RCOP.No.1235 of 2011 passed by the Appellate Authority namely the VIII Judge, Court of Small Causes, Chennai, thereby confirming the order dated 04.09.2013 passed in M.P.Nos.409, 408, 410 and 411 of 2012 in M.P.Nos.149, 149, 131 and 131 of 2012 in RCOP.No.1235 of 2011 on the file of the Rent Controller namely the X Judge, Court of Small Causes, Chennai.

2. Though notice was served on the petitioner and his name is printed in the cause list, none appears for the petitioner either in person or through counsel. The counsel on record filed a memo before this Court stating that they have no instruction and they have already handed over the entire bundle along with the change of vakalat to the petitioner even then the petitioner did not engage any advocate so far and it shows that the petitioners intention to protract the proceedings.



3. The petitioner is a tenant and the respondent is the landlord. The respondent filed a petition for eviction on the ground of wilful default in payment of rents. The petitioner is a tenant under the respondent, occupying a shop portion in the ground floor in premises situated at Door No.6, Veerappan Street, Sowcarpet, Chennai. It is used for non-residential purpose on a monthly rent of Rs.1320/-. However, he was regular in payment and he was also not paid rent from 01.02.2006 to 31.05.2011. Hence, the respondent filed a petition for eviction on the ground of wilful default.

4. The petitioner was set exparte by a decreetal order dated 11.11.2011. The said eviction petition was ordered in favour of the respondent herein. In order to execute the said order the respondent also filed a execution petition in E.P.No.54 of 2012. On receipt of the notice from the Executing Court, the petitioner filed a petition to set aside the exparte order of eviction with delay of 85 days in M.P.No.131 of 2012 and he also filed a petition to set aside the exparte decree in M.P.No.149 of 2012. In the meanwhile, in the execution petition the petitioner also filed a counter affidavit on 14.03.2012. However, the petitioner failed to appear before the Rent Control Appellate Authority in the condone delay petition and as such, the same was dismissed for default on 14.03.2012. In order to restore the condone delay petition the petitioner also



filed a petition in M.P.No.408 of 2012 with the delay of 137 days and M.P.No.410 of 2012 was filed to condone the delay of 137 days in filing the petition to restore the restoration petition. Simultaneously, the M.P.No.411 of 2012 was filed to restore the condone delay petition. In all the petitions, evidences were recorded on behalf of the petitioner.

5. On perusal of documents, which have been filed, revealed that the learned Rent Control Appellate Authority dismissed all the applications. Aggrieved by the same, the petitioner preferred an appeal in R.C.A.Nos.495, 497, 499 and 500 of 2013. Pending the appeal, the petitioner also filed M.P.No.486 of 2018 to receive the additional documents. However, the said application was also dismissed by an order dated 17.12.2018 in all the appeals, the respondent filed counter affidavit and all the appeals were dismissed by the common order dated 18.03.2019. Aggrieved by the same, the present civil revision petition.

6. In the meanwhile, the respondent also filed another Eviction Petition in RCOP.No.1149 of 2016 on the file of the XV Judge, Court of Small Causes, Chennai, on the ground of subletting the premises which is pending. Pending the said Eviction Petition, the respondent also filed a petition in M.P.No.230 of



2019 in RCOP.No.1149 of 2016 and it is pending. Subsequently, it was allowed

and aggrieved by the same, again, the petitioner preferred appeal in R.C.A.No.81 of 2021 in which an order of conditional stay was granted by the learned Rent Control Appellate Authority. Accordingly, the petitioner deposited a sum of Rs.1,00,000/-. In fact, the balance rent was not deposited as directed by the learned Rent Control Appellate Authority. According to the petitioner, he was set exparte before the learned Rent Control Appellate Authority on 12.10.2011 and thereafter an exparte order was passed on 11.11.2011.

7. A perusal of records also revealed that when the petitioner was facing eviction proceedings, he must be aware of the date of hearing. That apart, the reasons stated in the condone delay petition was not sufficient and not enough to condone the delay in filing the petition to restore the condone delay petition and restore set aside the exparte order petition.

8. In order to attract the eviction proceedings, the petitioner wantonly and wilfully failed to appear before the learned Rent Control Appellate Authority in the condone delay petition. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.



CRP Nos.1889, 1890, 1891 & 1894 of 2019

WEB COPY

9. Accordingly, these civil revision petitions stand dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

11.01.2023

Speaking/Non-speaking order

Index : Yes/No

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To

1.The VIII Judge, Court of Small Causes,
Chennai.

2.The X Judge, Court of Small Causes,
Chennai



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CRP Nos.1889, 1890, 1891 & 1894 of 2019

G.K.ILANTHIRAIYAN.J,

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