



C.R.P.No.2399 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2399 of 2017

Kishore Singh (Deceased)

1.Prem Devi

2.Bharat Singh

.. Petitioners

vs

1.K.C.S.C.Balakrishnan(died)

2.B.Nagamani

3.B.Jayakumar

4.Meena Kumari

(R2 – R4 brought on record
vide order dated 18.08.2022)

.. Respondents

Petition filed under Section 115 of CPC to set aside the fair and decreetal order passed in MP No. 555 of 2016 in RCOP No.1861 of 2012 on the file of X Small Causes Court, Chennai.

For Petitioners : Mr.K.Mukund Rao

For Respondents : Mr.P.K.Mohanvel
for Mr.R.Krishnaswamy

ORDER

This is a revision filed as against order refusing to condone the delay in M.P.No.555 of 2016 in R.C.O.P.No.1861 of 2012.



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2. The said application was filed to condone the delay of 1149 days to set aside ex-parte order of fair rent passed by the Court on 07.08.2013. The said application was filed after the suit had been filed for recovery of money in O.S.No.2600 of 2016.

3. As against Section 5 of the Limitation Act, an appeal lies before the Rent Control Appellate Authority under Section 23 of the Tamil Nadu Buildings (Lease and Rent Control) Act. This is so because vital rights of the parties are affected. The law has been laid down by the Supreme Court in *Central Bank of India v Gokul Chand* 1967 (2) SCJ 828/829. Also see, *S.K.Chandrasekharan v S.S.Jaganmani* (2007) 5 MLJ 1045. Therefore, the Civil Revision Petition is not maintainable. The remedy is only to approach the Rent Control Appellate Authority. Consequently, this civil revision petition is dismissed. No costs.

4. The petitioners have approached the Court immediately on the disposal of M.P.No.555 of 2016. Hence, liberty is granted to the petitioner to file an appeal within 30 days from the date of receipt of a copy of this order. On filing of such appeal, within the period so granted, the Court shall not insist upon an application under Section 5 of the Act.



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5. Registry is directed to return the original fair and decretal order in M.P.No.555 of 2016 in R.C.O.P.No.1861 of 2012 dated 14.03.2017 after getting endorsement from the learned counsel for the petitioner.

20.07.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To:

The X Small Causes Court,
Chennai.



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V. LAKSHMINARAYANAN,J.

ssm

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