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CRP No.607 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

CORAM :

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP No.607 of 2023 &

CMP No.4859 of 2023

Srinivasakumar

...Petitioner/Appellant/Petitioner/Proposed 2nd respondent

-Vs-

1.D.Gurunathan

...1st respondent/1st respondent/1st respondent/petitioner

2.M/s.Polypipes India (P) Ltd.

Rep by its Managing Director,

Lakshmi Shankara

No.95 Dr.Alagappa Road,

Purusawalkam, chennai 600 084.

....2nd Respondent/2nd respondent/2nd respondent/respondent

Prayer : Civil Revision Petition under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, to set aside the order and decree passed by the learned Rent Controller Appellate Authority the VIIth Small Causes Court, Chennai, in RCA No.81 of 2019 dated 28.09.2022 confirming the order and decreetal order passed in M.P No. 241 of 2018 in RCOP No. 635 of 2017 dated 22.10.2018 by the learned XIIIth Small Causes court, Chennai filed by the petitioner to condone the 300 days of delay in filing application to set aside the



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exparte decree dated 13.07.2017 passed in RCOP No. 635 of 2017 by the learned XIIIth Small Causes Court, Chennai.

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For Petitioner : Mr.S.Selvaraj
For Caveator : Mr.V.Sivakumar
for P.B.Ramanujam

ORDER

This Civil Revision petition has been filed to set aside the order and decree passed by the learned Rent Controller Appellate Authority the VIIth Small Causes Court, Chennai, in RCA No.81 of 2019 dated 28.09.2022 confirming the order and decreetal order passed in M.P No. 241 of 2018 in RCOP No. 635 of 2017 dated 22.10.2018 by the learned XIIIth Smal Causes court, Chennai filed by the petitioner to condone the 300 days of delay in filing application to set aside the exparte decree dated 13.07.2017 passed in RCOP No. 635 of 2017 by the learned XIIIth Small Causes Court, Chennai.

2. The brief facts of this case are as follows:

The revision petitioner herein is the tenant under one Rajendra Kuamar and also paid a sum of rupees five thousand per month as a rent to him from the year 2006 till date for non residential purpose and also paid Rs.1,00,000/- as advance. While so, the Corporation of Chennai served notice in the name of Dill Basha Chetty for the arrears of tax for the portion occupied by him. Then only the petitioner came to know about the property stands in the name of Dill Basha



Chetty. Thereafter, the petitioner paid a sum of Rs.50,000/- towards tax for the building on 16.08.2016 to the corporation of Chennai and the petitioner running his business in the name and style of M/s Srinivasakumar Plastic Reprocess. While being so, the first respondent/land lord without adding the petitioner as party in RCOP obtained ex parte order of eviction. Thereafter, the petitioner received notice in E.P No. 634 of 2017 in RCOP No. 635 of 2017 then only the petitioner came to know about the RCOP proceedings. Subsequently, the petitioner herein filed petition in MP. No. 241 of 2018 in RCOP No. 635 of 2017 to implead himself as party to the RCOP proceedings and for condonation of 300 days delay along with application to set aside the ex parte order and the said application was contested by the land lord/first respondent herein stating that the petitioner herein is not a party to the proceedings and also the petitioner entered into agreement only with second respondent herein not with the first respondent herein. Thereafter the said petition was dismissed by the Trial Court. Hence the learned counsel for the petitioner submitted that in order to cheat the petitioner the first respondent colluded with second respondent obtained ex parte decree without impleading himself as party. But, the Trial Court dismissed the said application stating that there is no landlord and tenant relationship between the petitioner and the first respondent which is misconception of law and facts.



Challenging the said application, the petitioner herein filed RCA No. 81 of 2019 before the VII Small Causes Court, Chennai, which also dismissed by confirming the order of the Rent Controller holding that there is no landlord tenant relationship between the petitioner and the first respondent. Aggrieved over the same, the present petition has been filed.

3. The learned counsel for the petitioner submitted that the petitioner paid rent to the Rajendra Kumar all these years and also paid tax to the corporation. Now suppressing tenancy with him the first respondent get exparte order without impleading the petitioner as party hence the petitioner has right to contest the rent control proceedings as a party but the same was dismissed by the Courts below. Hence he prays to allow this petition.

4. By way of reply, the learned counsel for the respondent submitted that the second respondent was tenant to the first respondent and defaulted in payment of rent from the year 2014 till date. Hence the first respondent initiated rent control proceedings in the year 2017 in which the second respondent was exparte. Now at the instigation of the second respondent this petitioner filed this petition in order to drag on the proceedings. Furthermore, there is no landlord tenant relationship between the petitioner and the first respondent which was rightly appreciated by the Courts below which needs no interference.



5. Considering the submissions on either side and also on perusal of records, it reveals that second respondent defaulted in payment of rent hence the first respondent initiated Rent Control proceedings and obtained exparte order. Thereafter, eviction order was passed, now the petitioner claiming himself as tenant under one Rajendra kuamar and filed petition for condonation of 300 days delay and prayed to implead himself as respondent. Furthermore, the petitioner admitted that he has not paid any rent to the first respondent/land lord which clearly implies that there is no landlord tenant relationship between them. Admittedly, there is no proof to prove that there is any agreement with the first respondent. Hence this Court does not any infirmity in the order passed by the Courts below.

6. Accordingly this Civil Revision Petition is dismissed. No cost. Consequentially, connected miscellaneous petition is dismissed.

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