



C.R.P(MD)Nos.1498 to 1500 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)Nos.1498 to 1500 of 2012

and

M.P.(MD)Nos.1, 1 and of 2012

1.Marudhavana Desikar (died)

2.M.Sivasubramanian

... Petitioners in all petitions

*[second petitioner is impleaded as legal heir of the deceased
first petitioner vide Court order dated 11.08.2023]*

-VS-

1.M.Jegannathan

2.Visalakshi

3.Thirupurasundari

4.Paramakalyani

... Respondents in all petitions

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decreetal dated 09.10.2009 order in C.F.R.Nos.5456, 5437 and 5452 of 2009 on the file of the Principal Subordinate Court, Kumbakonam and allow this Civil Revision Petition.

In all petitions:

For Petitioner : Mr.T.Antony Arulraj
for Mr.B.Prasanna Vinoth

For R1 : Mr.B.Anandan



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COMMON ORDER

The present Civil Revision Petitions have been filed by the landlord challenging the order passed by the appellate authority under the Tamil Nadu Cultivating Tenants (Payment of Fair Rent) Act, 1956.

2. According to the learned counsel for the petitioners, the first petitioner is the landlord and the first respondent is his tenant. The tenant filed applications before the Original Authority for waiver of rent for three Fasli years and those applications were allowed on 12.03.2008. According to the landlord, the order copy in those three applications were not served upon him and he was constrained to file an application for receipt of certified copy of the orders. Thereafter, the certified copy of the orders were served upon the landlord on 04.05.2009 and the appeals were presented before the appellate authority on 01.06.2009.

3. The appellate authority had not taken the appeals on file on the ground that the landlord has not explained the reason for delay in filing the appeals.



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The landlord has not filed the copy of the application, under which he sought for certified copies of the order of the original authority. Based upon this ground, the appeals were rejected by the appellate authority. Challenging the said orders, the present revision petitions have been filed.

4. According to the learned counsel for the landlord, the appellate authority could have very well verified from the records as to whether the order copies were served upon the landlord or not. Instead, the appellate authority has chosen to reject the appeals on the ground that the appeals were presented beyond the period of limitation. He further submits that he would file condone delay application explaining the circumstances relating to filing of the appeals on 01.06.2009 and requests for remanding the matter to the appellate authority.

5. Per contra, the learned counsel appearing for the first respondent would contend that the first respondent, who is the tenant, had passed away and his legal heirs have not yet responded to him.

6. I have carefully perused the submissions made on either side.



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7.The appeals presented by the original revision petitioner herein have been rejected by the appellate authority without issuing any notice to the first respondent/tenant. Therefore, there is no necessity to issue notice to the tenants in the present revision petitions.

8.According to the learned counsel appearing on behalf of the landlord, he was not issued with the copy of the orders passed by the original authority and he could get the copy of the same only on 04.05.2009. Hence, the appeals presented on 01.06.2009 were in time. However, such circumstances have not been explained by the landlord by filing a condone delay application before the appellate authority. Therefore, this Court is of the view that the order passed by the appellate authority could be set aside and the matter may be remitted back to the file of the appellate authority and an opportunity may be provided to the revision petitioner to file condone delay application explaining the delay in filing appeals along with the relevant documents, which may be required to condone the delay.



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9.In case, if any such condone delay application is filed, the appellate authority shall dispose of the same on merits and in accordance with law after issuing notice to the legal heirs of the first respondent herein.

10.With the above said observations, these revision petitions stand allowed and the matter is remitted back to the Sub Court, Kumbakonam. No costs. Consequently, connected miscellaneous petitions are closed.

11.08.2023
(2/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

The Sub Court,
Kumbakonam.



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R.VIJAYAKUMAR,J.

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