



C.R.P.(MD).No.54 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD).No.54 of 2023

and

CMP(MD).No.286 of 2023

Uma Maheswary

....Petitioner

Vs

Ramalaxmi

...Respondent

PRAYER: The Civil Revision Petition has been filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.5 of 2019 in I.A.No.6 of 2017 in R.C.O.P.No.7 of 2014 on the file of the District Munsif, Sathankulam, dated 28.06.2022.

For Petitioner : Mr.R.Balakrishnan

For Respondent : Mr.J.C.Rathnavel Pandian

ORDER

The present civil revision petition has been filed challenging an order refusing to condone the delay of 689 days in representing an application seeking extension of time.

2.The revision petitioner is a tenant and the respondent herein had



C.R.P.(MD).No.54 of 2023

filed RCOP.No.7 of 2014 on the file of the Rent Controller, Sathankulam.

The petitioner had remained exparte and an exparte order was passed on 30.08.2016. The petitioner/tenant had filed an application to set aside the exparte order and the same was allowed on payment of cost of Rs.1200/-

Due to non compliance of the above said order, the application was dismissed on 27.06.2017. Thereafter, the petitioner/tenant had presented an application for extension of time for payment of cost and the same was returned on 21.07.2017 and for representation one month time was granted. However, the said application was not represented in time.

Therefore, the petitioner had filed I.A.No.5 of 2019 to condone the delay of 689 days in representing the application seeking extension of time for payment of cost. This application was dismissed by an order dated 28.06.2022. This order is under challenge in the present civil revision petition.

3.The learned counsel for the petitioner had contended that after extension of time application was returned, the petitioner was suffering from Jaundice and he could not contact her counsel to represent the same after rectifying the defects. Moreover, the returned application got mixed up with other bundles and the same could not be represented.



C.R.P.(MD).No.54 of 2023

4.The Rent Controller after going through the averments, has arrived at a finding that the cost has not been paid in time and the extension of time has been represented only after a period of 2 years and the reason assigned by the tenant is an illness which is not supported by any document and on the said ground, I.A.No.5 of 2019 has been dismissed. Challenging the same, the present civil revision petition has been filed.

5.The learned counsel for the petitioner has strenuously contended that an opportunity may be given to the tenant so that she would contest the rent control proceedings on merits.

6.The learned counsel for the respondent has contended that right from the date of filing of RCOP, the tenant has not paid any rent.

7.At this juncture, the learned counsel for the revision petitioner submitted that he would advise his client to pay rent and the rent control proceedings may be taken afresh after setting aside the exparte order.

8.I have considered the submissions made on either side and perused the materials available on record.



C.R.P.(MD).No.54 of 2023

WEB COPY

9.The petitioner has suffered an exparte order of eviction on 30.08.2016. The application to set aside the exparte order was filed with a delay of 300 days and it was allowed by the Rent Controller on condition to pay a sum of Rs.1200/- within a month. However, the said cost was not paid in time and the said application got dismissed automatically. Thereafter, the tenant had filed an application under Section 148 C.P.C for extension of time for payment of cost. The said application has been returned for rectifying certain defects and it was represented after a period of 2 years. In order to condone the delay I.A.No.5 of 2019 has been filed.

10.A narration of the above said facts would make it clear that at all the stages of the proceedings, the tenant had been careless and she was not interested in defending the rent control proceedings. Moreover, the delay has been attributed to Jaundice and the length of delay will clearly disclose that the Jaundice could not be a reason for such delay.



C.R.P.(MD).No.54 of 2023

11. In view of the above said facts, I do not find any illegality or infirmity in the order passed by the trial Court in dismissing the representation application. This civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.02.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
msa

To

The District Munsif
Sathankulam

R.VIJAYAKUMAR, J



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C.R.P.(MD).No.54 of 2023

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