



C.R.P.No.385 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.385 of 2023
and
CM.P. No.3191 of 2023

K.Jayaprakash

... Petitioner

Vs

Manpaul Hasanath Hameethiya Madharasa Trust

Represented by its Trustee

Tmt.Nazeema Taj, W/o. Tajudeen

Having Office at Door No.1, Noolkadai Street,

Nagapattinam

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 19.01.2023 passed by the District Munsif Court, Nagapattinam in I.A.No.1 of 2022 in RLTOP No.5 of 2021.

For Petitioner : Mr.P.Balamurugan

For Respondent : Mr.S.Palanisamy



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ORDER

This revision has been filed seeking to set aside the fair and decreetal order dated 19.01.2023 passed by the District Munsif Court, Nagapattinam in I.A.No.1 of 2022 in RLTOP No.5 of 2021, dismissing the petition filed under Section 5 of Limitation Act to condone the delay of 141 days in filing the petition to set aside the ex-parte order of eviction dated 03.03.2022.

2. The petitioner is the Tenant. The respondent Trust is the owner of the property.

3. The respondent had filed RLTOP No.5 of 2021 on the file of the District Munsif Court, Nagapattinam seeking for eviction on the ground of wilful default and failure to enter into agreement. The petitioner/Tenant had appeared before the Rent Controller on 09.08.2021 and thereafter, the case was posted for counter on 04.10.2021 and subsequently, posted on 09.10.2021 and 21.10.2021. However, the petitioner/Tenant had not filed counter and therefore, he was set ex-parte on 21.10.2021 and after completion of ex-parte enquiry on 22.01.2021 and 07.12.2021, the case was adjourned from 14.12.2021 to 24.02.2022 for final orders. After providing sufficient opportunities, the ex-parte decree for eviction was



ordered on 03.03.2022. Thereafter, the respondent filed E.P. No.11 of 2022 in RLTOP No.5 of 2021 in which, the petitioner/Tenant had appeared on 11.07.2022, however, he filed his counter only on 22.12.2022 after several hearings (i.e. 26.08.2022, 29.09.2022, 18.10.2022, 07.11.2022, 08.12.2022). Though the petitioner/Tenant had appeared in the main execution petition on 11.07.2022, he filed the interlocutory application to condone the delay in filing the petition to set aside the ex-parte order only on 18.08.2022. The Rent Controller on finding that no sufficient cause had been shown by the petitioner, had dismissed the petition against which, the present revision has been filed.

4. The learned counsel for the petitioner/Tenant submitted that most of the proceedings happened during Corona Pandemic. The petitioner has got a good case and valid grounds on merits and though the delay is huge, if the delay is not condoned, the petitioner would be put to severe hardship and that the petitioner is also facing threat of eviction. The learned also submitted that he undertakes that the petitioner will appear before the Rent Controller on all hearing dates without fail and will ensure for speedy disposal of RLTOP and prayed that the revision may be allowed on terms and imposition of cost in the interest of justice.

5. Mr.Palanisamy, learned counsel appearing for the respondent would



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submit that the Rent Controller on finding that no sufficient cause had been shown by the petitioner, rightly dismissed the petition. He would further submit that Section 36(6)(a) of TNRRRL&T Act was brought into force only to avoid the delay in disposal of the petitions and as per the mandate of Section 36(6)(a) of TNRRRL&T Act, the application for eviction has to be disposed of within 90 days of filing of application in the Rent Court. The Court had granted sufficient time and that the conduct of the petitioner would show that only to delay the process, he had filed the application.

6. This Court is able to see that most of the dates falls within the Covid period. Therefore, this Court is of the opinion that in the interest of justice, one last chance may be given to the petitioner on imposition of terms of cost to compensate the respondent for the inconvenience caused to him.

7. Accordingly, the petitioner is directed pay a sum of Rs.5,000/- (Rupees five Thousand only) by way of Demand Draft within one week from the date of receipt of a copy of this order.

8. On such payment being made and proof produced before the Rent Controller, the ex-parte order dated 21.10.2021 and the eviction order dated 03.03.2022 passed in RLTOP No.5 of 2021 shall be set aside and the RLTOP



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No.5 of 2021 be taken on file. The Rent Controller shall ensure the completion of the proceedings within four weeks thereafter. In the event of the revision petitioner failing to appear before the Court on any of the hearing dates, the Rent Controller is at liberty to decree the RLTOP without further reference.

9. With this observations, the Civil Revision Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

10.09.2024
(1/2)

Note: Issue order copy on 12.09.2024.

Index : Yes / No

Neutral Citation : Yes / No

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To

The District Munsif Court, Nagapattinam



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