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C.M.P.No.10295 of 2024 in C.R.P.SR.No.19674 of 2024

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M.NIRMAL KUMAR, J.

To condone the delay of 261 days in preferring civil revision petition against the order passed by the learned XIV Judge, XIV Court of Small Causes, Chennai in E.P.No.241 of 2020 in R.C.O.P.No.1549 of 2010, dated 13.02.2023, this civil miscellaneous petition is filed by the petitioner.

2.The learned counsel for the petitioner submitted that the petitioner is the Tenant/Judgment Debtor and the 1st respondent is the Landlord/Tenant. The 1st respondent filed R.C.O.P.No.1549 of 2010 before the Rent Control Court stating that the property was given lease to one Viswanathan and he was paying the rent of Rs.1,200/- per month. Thereafter the said Viswanathan was paying rent to Devaraj/2nd respondent who was Managing the petitioner's property. The said Devaraj without consent and permission of the landlord permitted the petitioner to stay in the property given to Viswanathan for lease. The petitioner is an unauthorized person, a total stranger to the 1st respondent. When the petitioner sent cheque for Rs.1,200/- as monthly rent to the 1st respondent, the same was not received. Since there



was arrears of rent from October 2009 to July 2010 for a period of ten months, demand was made for arrears of rent to Devaraj. Both the judgment debtors/2nd respondent and petitioner filed suit in O.S.No.1882 of 2010 before the learned XIV Judge, XIV City Civil Court, Chennai seeking injunction against the 1st respondent not to evict them except by due process of law. The Rent Control Court on a petition filed for recovery of arrears of rent under Sections 11(3) & 11(4) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 in M.P.No.342 of 2014, directed the petitioner and the 2nd respondent to pay the sum of Rs.25,200/- towards the arrears of rent for the period from September 2012 to May 2014, till such time the proceedings in R.C.O.P.No.1549 of 2010 was kept in abeyance. On 28.08.2014, it was represented that the conditional order not complied, hence R.C.O.P.No.1549 of 2010 to be allowed and order of eviction sought for. Since none appeared for the petitioner and 2nd respondent, R.C.O.P.No.1549 of 2010 was allowed ordering eviction. Thereafter, the 1st respondent filed E.P.No.241 of 2020 to vacate the petitioner and the 2nd respondent from the premises.

3.He further submitted that in E.P.No.241 of 2020, the judgment debtors/petitioner and 2nd respondent filed counter stating that



R.C.O.P.No.1549 of 2010 was filed against them and a petition to fix fair rent at Rs.29,470/- per month is pending in R.C.O.P.No.1253 of 2010 before the learned XI Judge, XI Court of Small Causes, Chennai. The learned Judge, XI Court of Small Causes, Chennai fixed the fair rent of Rs.15,055/-, against which, the 1st respondent/deGREE holder approached this Court for recovery of arrears of rent. While this being so, the proceedings in R.C.O.P.No.1549 of 2010 and the petition in M.P.No.342 of 2014 not to have entertained. The 1st respondent/deGREE holder filed E.P.No.241 of 2020 after lapse of six years without any reason. The specific case of the 1st respondent/deGREE holder is that she has not authorized the 2nd respondent/Devaraj to sublet the petitioner as sub tenant. In such circumstances, the relationship of landlord and tenant does not exist and proceedings before the Rent Control Court cannot be proceeded, hence, a regular suit to be filed. He further submitted that the delay in filing the present petition is neither willful nor wanton and no prejudice would be caused to the 1st respondent if the delay is condoned. Hence, he prays for condonation of delay.



4.The learned counsel for the 1st respondent/decree holder submitted that the petitioner is squatting on the respondent's property through Devaraj/2nd respondent without paying rent, hence, a petition in R.C.O.P.No.1549 of 2010 filed by the 1st respondent before the Rent Control Court to vacate the petitioner on the ground of willful default. Added to it, another petition filed in R.C.O.P.No.1253 of 2010 for fixation of fair rent and the same was fixed. In the meanwhile, the 1st respondent filed M.P.No.342 of 2014 in R.C.O.P.No.1549 of 2010 for eviction on the ground of willful default which was allowed by order, dated 28.08.2013. Thereafter, E.P.No.241 of 2020 in R.C.O.P.No.1549 of 2010 filed and delivery ordered on 13.02.2023. It is seen that R.C.O.P.No.1549 of 2010 filed in the year 2011, from that year onwards, the petitioner had been squatting on the 1st respondent's property without paying rent which was agreed earlier and the fair rent fixed. The petitioner is a defaulter in payment of rent to the 1st respondent. The 1st respondent filed C.R.P.No.3548 of 2023 before this Court challenging the order, dated 21.06.2023 passed in E.A.No.4 of 2023 in E.P.No.241 of 2020. This Court finding that the arrears of rent by the petitioner is to the tune of Rs.21,82,945/-, the eviction was ordered in the year 2014, appeal filed, the same was dismissed, finding that the judgment



debtors viz., the petitioner and 2nd respondent have been filing 47 application filed one after another to set aside the execution order, dismissed C.R.P.No.3548 of 2023 on 30.10.2023 with a direction directing the petitioner to vacate the premises within a period of two months. Again C.R.P.No.3548 of 2023 listed at the instance of the petitioner for clarification. This Court by a detailed order, dated 15.12.2023 found that Devaraj/2nd respondent is none other than the father-in-law of Ramesh who is the petitioner herein and held that earlier the 2nd respondent herein filed E.A.No.1 of 2020 under Section 47 C.P.C and the same was dismissed with cost, against which, he preferred C.R.P.No.889 of 2021 before this Court and this Court elaborately discussed the landlord tenancy dispute between the parties and dismissed the revision with cost of Rs.10,000/-, again the petitioner herein filed E.A.No.4 of 2023 under Section 47 C.P.C and the same was dismissed. This Court also recorded that the petitioner has committed default and already petition under Section 11(4) filed, the Rent Controller ordered eviction, against which, the appeal preferred by the tenant also dismissed and the decree passed by the Rent Controller confirmed and also recorded that the grounds raised by the judgment debtor that the decree is inexecutable as such is totally false, vexatious claim and allowed C.R.P.No.3548 of 2023 directing



the judgment debtors to vacate the premises.

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5.It is further submitted that the judgment debtors viz., the petitioner and Devaraj/2nd respondent who are none other than son-in-law and father-in-law by filing one petition or other successfully dragging on the proceedings and not vacated the 1st respondent's premises. Now the petitioner filed this civil miscellaneous petition to condone the delay in preferring revision against the order passed by the learned XIV Judge, XIV Court of Small Causes, Chennai in E.P.No.241 of 2020 in R.C.O.P.No.1549 of 2010, dated 13.02.2023 which is nothing to drag on the proceedings further. Hence, he strongly objects for condonation of delay.

6.Considering the submissions and on perusal of the materials, it is seen that from the year 2010, the petitioner has been squatting on the property of the 1st respondent along with his father-in-law Devaraj/2nd respondent. Taking advantage of death of A.S.Damotharan, the 1st respondent herein was harassed, made to run from pillar to post to evict the petitioner and the 2nd respondent. The relationship of landlord and tenant is confirmed by this Court twice. The petitioner and the 2nd respondent are



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willful defaulter to the tune of Rs.21,82,945/- at the time of disposal of C.R.P.No.3548 of 2023. It is to be noted that the petitioner not made any payment of rent but still claims that there is no landlord tenant dispute which has been negated and the petitioner and the 2nd respondent were ordered to evict by the Rent Controller, Rent Appellate Tribunal and this Court.

7.In view of the above, this Court is not inclined to condone the delay. Accordingly, this civil miscellaneous petition is dismissed.

8.The petitioner and the 2nd respondent are directed to vacate the 1st respondent's premises immediately and handover the vacant possession to her. The Execution Court is directed to take all steps including Police protection to vacate the petitioner and the 2nd respondent without delay and ensure the order of this Court is implemented in letter and spirit.

24.07.2024

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