



C.R.P. No. 1939 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P. No. 1939 of 2019

and

C.M.P. No. 12710 of 2019

M. Chandran

... Petitioner

Vs.

Abraham Saji

... Respondent

Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the ex parte order dated 11.01.2019 passed in I.A.No.247 of 2018 in R.C.O.P.No.275 of 2013 on the file of the Rent Controller – The Principal District Munsif of Coimbatore.

For Petitioner : Ms. R. Divyapreathika

For Respondent : Mr. Umayal Muthaiah

ORDER

The Civil Revision Petition is filed against the order dated 11.01.2019 in I.A.No.247 of 2018 in R.C.O.P.No.275 of 2013 on the file of the Rent Controller / The Principal District Munsif of Coimbatore.



C.R.P. No. 1939 of 2019

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.

3. The petitioner herein is the respondent and respondent herein is the petitioner in R.C.O.P.No.275 of 2013. The respondent herein filed the R.C.O.P., for eviction of the petitioner herein. The respondent herein also filed an application under Section 11 of Deposit of the defaulted rent to be paid by the petitioner herein. The petitioner despite adequate opportunity given to him did not appear and file any counter statement. On account of his non appearance, the Rent Controller passed an order setting him ex parte and directed him to pay the monthly rent of Rs.13,000/- from August 2014 till March 2017 within a period of one month from the date of order. The petitioner did not deposit the rent as directed by Rent Controller and failed to comply the order of the Rent Controller. The Rent Controller passed an order to strike off all defences of the petitioner to have not defences to oppose the main petition filed by the petitioner for eviction. Aggrieved by the same, the petitioner filed an application in I.A.No.247 of 2018 seeking to condone the delay of 55 days and take on file to set aside the application.



C.R.P. No. 1939 of 2019

4. Having considered the same, the Rent Controller was pleased to dismiss the said petition holding that the petitioner has failed to put forth a good case for condoning the delay in filing the ex parte set aside petition. Against the said order, the present Civil Revision Petition is filed.

5. During the course of hearing, the learned counsel for the respondent submits that the R.C.O.P. No.275 of 2013 was disposed of by final order and decree dated 11.01.2019 and against the said order, the petitioner herein filed an appeal in R.C.A. No.7 of 2024 and the same is pending and as such, the learned counsel submits that nothing survives in the present civil revision petition for adjudication. The petitioner has an ample opportunity to put forth his case in the appellate Court. The learned counsel also placed a copy of the final order and decree dated 11.01.2019 in R.C.O.P. No.275 of 2013. It is placed on record.

6. The learned counsel for the petitioner contended that this Court has to decide whether the order passed in I.A.No.247 of 2018 is legal or not in the present CRP.



C.R.P. No. 1939 of 2019

7. Having heard the submissions of the respective counsel and upon perusal of the material available on record, it appears that though sufficient time is granted to the petitioner herein by the Rent Controller, he did not appear and did not file any counter statement. The petitioner also failed to comply the conditional order passed by the Court.

8. Under those circumstances, the Rent Controller passed an order to strike off all the defence of the petitioner. Even for filing set aside application also, the petitioner did not take steps immediately and with a delay of 55 days only he filed a set aside application. The Rent Controller dismissed the said application holding that the petitioner failed to put forth a good case for condoning the delay in filing the ex parte set aside application.

9. In our considered opinion, the order passed by the Rent Controller is legal and reasonable and interference of this Court is unwarranted.



C.R.P. No. 1939 of 2019

10. Admittedly, the main R.C.O.P.No.275 of 2013 has been disposed of by final order and decree dated 11.01.2019 and the petitioner herein filed an appeal in R.C.A.No.7 of 2024 before the appellate authority and it is pending, the petitioner is having ample opportunity to put forth his case before the appellate authority in the said appeal.

11. For the reasons stated above, in the considered opinion of this Court, there is no infirmity or irregularity in the order passed by the Rent Controller and accordingly, no interference is warranted against such order.

12. Accordingly, this Civil Revision Petition is dismissed.

13. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

10.06.2024

Index : Yes / No

Neutral Citation : Yes / No

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5/6



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C.R.P. No. 1939 of 2019

BATTU DEVANAND, J.

AT

To
The Rent Controller – The Principal District Munsif of Coimbatore.

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