



WEB COPY

C.R.P. No.3120 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-06-2024

CORAM

THE HONOURABLE MR. JUSTICE P. DHANABAL

C.R.P. No.3120 of 2022

and

C.M.P. No.16771 of 2022

R. Ramanujam ... Petitioner/ Petitioner/ 2nd Respondent

-vs-

M. Ramasamy ... Respondent/ Respondent/ Petitioner

Civil Revision Petition is filed to set aside the Order of the learned I Additional District Munsif (Rent Controller), Coimbatore in I.A.No.303/2015 in R.C.O.P. No.260/2005 dated 23.03.2017 and to allow the same.

For Petitioner : M/s. S. Muthukumar

For Respondent : M/s. P. Saravana Sowmiyam

ORDER



The petition filed to set aside the Order passed in I.A. No.303/2015 in R.C.O.P.No.260/2005 dated 23.03.2017, wherein the petitioner has filed a petition to condone the delay of 1700 days in filing the petition to set aside the ex-parte order passed against him under section 5 of Limitation Act. The Trial Court dismissed the petition, against the said Order, the present petition is filed.

2. According to the petitioner, who is the tenant in the Main R.C.O.P, the respondent has filed the main RCOP for eviction and the matter was hotly contested by the petitioner by engaging a counsel. The said case was posted on 24.11.2010 for enquiry, meanwhile the previous counsel engaged by him instructed to meet him, since he awaited for some records to prepare, he is unable to contact his counsel for further instructions, thereafter he received notice in E.P.No.134 of 2014 in the said R.C.O.P and thereafter contacted his counsel and while enquiry, he came to know about the ex-parte Order was passed against him on 24.11.2010. Thereafter, he got no objection from the previous counsel and then filed a petition. Since, there is a delay of 1700 days in filing the petition to set aside the ex-parte Order passed



against him dated 24.11.2010, the Trial Court has not considered the above said reasons and dismissed the petition, hence this civil revision petition.

WEB COPY

3. According to the respondent, he denied the contents of the affidavit, the petitioner appeared through the present counsel did not filed any counter in the E.P.No.134/2014 and there was no representation on behalf of the petitioner, an ex-parte Order for delivery of possession was passed on 20.01.2015. Thereafter, when the Court Amin went to the premises for taking delivery, the petitioner purposefully evaded and come forward to file this present petition. Having knowledge about the ex-parte Order, the petitioner has not taken any steps to set aside the Order and no reasons stated by the petitioner to condone the delay. The petitioner is in occupation of the premises as a sub-tenant in violation of law, therefore this petition is liable to be dismissed.

4. Before the Trial Court, no oral or documentary evidence were adduced on either sides, the Trial Court after hearing both sides, dismissed the petition.



5. The learned counsel appearing for the petitioner would contend that the petitioner is the tenant and the respondent herein has filed a main petition for eviction, the petitioner also hotly contested the case through his counsel. When the matter was posted on 24.11.2010, the petitioner was unable to appear before the Court and his counsel also not informed him about the status of the case. He further submits that the petitioner waited for some records to prepare and to get on with the case for enquiry, therefore, he was unable to meet his counsel and thereafter after receipt of notice in the eviction proceedings, he came to know about the stage of the case, thereafter he got no objection from the previous counsel and filed this petition through the present counsel, therefore there is a delay of 1700 days in filing the petition to set aside the ex-parte Order passed against him dated 24.11.2010. He further submitted that the Trial Court failed to consider the case of the petitioner and the petitioner may be given an opportunity to put forth his defence and the case may be disposed upon merits after hearing both sides, therefore the Order passed by the Trial Court may be set aside.

6. The learned counsel appearing for the respondent would contend that there is no reason stated by the petitioner for the inordinate delay of



1700 days and after the ex-parte Order, the respondent has filed eviction petition and the same is pending for delivery, at this stage, only to delay the proceedings, this petition is filed.

7. Heard both sides and perused the records.

8. The petitioner has filed this petition to condone the delay of 1700 days. This Court perused the affidavit filed by the petitioner and the petitioner nowhere stated valid reasons for the inordinate delay of 1700 days and only in the affidavit it is stated that his counsel instructed to meet him before the hearing date on 24.11.2010, but he awaited for some document to prepare and get on with the case enquiry and thereafter he did not contact his counsel and his counsel also not informed him about the status of the case. Apart from that, there are no reasons stated by the petitioner, hence the above said reasons stated by the petitioner are not sufficient to condone the delay of 1700 days. The Trial Court in the Order failed to discuss about the case and only passed Order by dismissing the petition with cost. Though the Trial Court has not given any reasons, this Court after perusal of the records finds no merits in this petition, thereby the present petition is liable to be



dismissed.

C.R.P. No.3120 of



WEB COPY

9. Accordingly, this civil revision petition is dismissed.

Consequently, connected civil miscellaneous petition stands closed. No cost.

21-06-

2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

stn

P. DHANABAL, J.



WEB COPY

C.R.P. No.3120 of



stn

C.R.P. No. 3120 of 2022

21-06-2024