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C.M.P(MD).No.4940 of 2024in
Rev.Aplc.(MD) SR.No.15033 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2024

CORAM:

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI

C.M.P(MD).No.4940 of 2024
in Rev.Aplc(MD) SR.No.15033 of 2024

A.Palani Mudaliar (Died)

1.P.Murugesan
2.P.Sethuammal

... Petitioners/Review petitioners

Vs.

Tuticorin Nagarathar Viduthi Trust,
Through its Hereditary Trustee,
P.R.Ramanathan,
S/o. Periya Karuppan Chettiar,
No.24/12, T.K.R.Street,
Kanadukathan,
Sivagangai District.

... Respondent/Review respondent

PRAYER in C.M.P(MD).No.4940 of 2024 : Civil Miscellaneous
Petition filed under Section of the Limitation Act, praying to condone the
delay of 71 days in filing the above the review application before this Court.

PRAYER in Rev.Aplc (MD) SR.No.15033 of 2024 : Review application



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filed under Order 47 Rule-1 & 2 r/w Section 114 of Civil Procedure Code, praying to review the order passed by this Court in C.r.P.No.1116 of 2021 dated 17.11.2023 and allow the present review petition.

For Petitioners/Review petitioners : Mr.K.Gokul
For Respondent/Review Respondent : Mr.M.P.Senthil

ORDER

The captioned Civil Miscellaneous Petition is preferred to condone the delay of 71 days in filing the application for review of the order dated 17.11.2023 passed in C.R.P.(MD).No.1116 of 2021.

2. The applicants herein filed the above civil revision petition against the fair and decretal order dated 24.01.2019 in R.C.A.No.18 of 2014 on the file of Sub Court, Thoothukudi. The applicants in the above revision petition assailed the order of the learned Sub Judge, Thoothukudi by stating that the learned Sub Judge, erroneously passed the eviction order without properly appreciating the matter in dispute. Their further contention in the said revision petition was that the



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scheduled premises belong to the revision petitioners and there is no landlord tenant relationship between the revision petitioner and the respondent. However, the Rent Control Court failed to consider the same and erroneously passed the eviction order which was confirmed by the R.C.A Court and by this Court.

3. Aggrieved by this, the revision petitioners have preferred the present review application for reviewing the order of this Court dated 17.11.2023 in C.R.P(MD).No.1116 of 2021 with a delay of 71 days. The Captioned C.M.P is filed to condone the delay of 71 days filing the above review application, by stating that the said delay occurred due to misplacement of certified copy of the impugned order.

4. On the other hand, Mr.M.P.Senthil, learned counsel for the respondent would submit that the R.C.O.P.No.25 of 2011 was filed in the year 2011 for eviction on the ground of demolition and reconstruction. In the above petition, eviction was ordered on 12.02.2014 by the learned Rent Controller and the same was confirmed in R.C.A.No.18 of 2014 by order dated 24.01.2019. Thereafter, the above orders were confirmed by this Court on 17.11.2023 and the present review petition has been filed



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only to drag on the execution proceedings filed by the respondent/Trust in E.P.No.27 of 2020. He would further submit that neither sufficient nor good cause shown by the applicant for condoning the delay of 71 days in filing the review petition. The above submission is also reiterated in the counter affidavit.

5.Heard on both sides, records perused.

6.The present application has been filed for condonation of delay in filing the review application. It is the case of the applicant that the applicant applied for the certified copy of the order dated 17.11.2023 pronounced in C.R.P(MD.No.1116 of 2021. His counsel received the order copy and the same was misplaced again another copy application was filed on 13.02.2024 which was received on 15.02.2024. Apart from that, the applicant was under financial crises and that he had to mobilize fund for preferring the review application. Hence, the delay occurred for the above mentioned reasons and therefore, the said delay is neither willful nor wanton.

7.Considering the application having been filed in terms of Section 5 of the Limitation Act, 1963, the point which is to be considered is whether there is sufficient cause disclosed by the applicant for filing



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the review application beyond the period of 30 days from the date of the order dated 17.11.2023, since the period of limitation for filing the review application is 30 days.

8.Perusal of the application for condonation of delay and on consideration of the arguments advanced in support of the application, contended to be disclosing sufficient cause for the delay in filing the review application and it is the time spent in obtaining the certified copy. The law on the point is very clear that for the purpose of filing review application, no certified copy is required. Being so, merely because some time was spent in obtaining the certified copy, that itself cannot be a ground for condoning the delay. In any case, undisputedly the certified copy of the order dated 17.11.2023 was received by the applicant and it is stated that the same was misplaced in the Advocate Office. The second copy application was made on 13.02.2024 and the copy of the order was received on 15.02.2024. Though the applicant has claimed that he is not guilty of gross negligence, the above facts would reveal that, the applicant is guilty of negligence. Though the order was passed on 17.11.2023, the present review application is filed only on 13.02.2024 in a casual manner.



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9. Moreover, in order to entertain an application for condonation of delay the review application in respect of which there has been delay on the part of the applicant, and the condonation of which is sought for, the same must be maintainable in law. If the main application for review is itself not maintainable in law, question of condonation of delay in filing such application would not arise at all. In the case in hand, the landlord is facing the litigation from the year 2011 for evicting the applicant/tenant. The Courts below and this Court has categorically held that the review applicant is only a tenant under the respondent/landlord. Therefore, the contention of the applicant that he is the absolute owner of the demised premises is negatived. This Court while passing the order in the Civil Revision Petition specifically held that there was no reason to interfere in the orders passed in the R.C.O.P Court and in R.C.A respectively. No error apparent on the face of the record justifying this Court to exercise its power of review is articulated by the applicant.

10. For the reasons stated above, neither the applicant has been able to disclose sufficient cause for the condonation of delay of 71 days in filing the review application nor the review application itself being



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maintainable in the facts and circumstances of the case.

11.Hence, the application for condonation of delay is dismissed with costs and consequently, connected Review application stands rejected at SR stage.

23.07.2024

vsn

K.GOVINDARAJAN THILAKAVADI,J.

vsn



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