



C.R.P(MD)No.363 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.363 of 2018

Singampunari Vanihar Nala Sangam
represented by its present President
S.Vasu.

... Petitioner/Petitioner/
Appellant

Vs.

1.Sevugamoorthy (Died)

2.Krishnan

3.Muthulakshmanan

... Respondents/Respondents/
Respondents

4.Rajeswari

5.Sharmila

6.Kannan

... Proposed respondents

*(R4 to R6 are brought on record as Lrs of the deceased R1 vide
Court order, dated 10.04.2024)*

PRAYER: Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 to set aside the fair and decretal order, dated 24.11.2016 made in I.A.No.229 of 2015 in R.C.A.No.2 of 2007 on the file of the Rent Control Appellate Authority / Subordinate Judge, Sivagangai.



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For Petitioner : Mr.T.Selvan
for Mr.S.Muthuraman

For R2,R4-R6 : No Appearance

For R3 : Mrs.K.Saraswathi

ORDER

The present revision petition has been filed by the appellant in R.C.A.No.2 of 2007 on the file of the Sub Court, Sivagangai challenging an order, wherein the Appellate Court had rejected an application to condone the delay of 1213 days in filing an application to restore the appeal.

2. The revision petitioner herein as petitioner has filed R.C.O.P.No.1 of 2004 before the District Munsif cum Judicial Magistrate Court, Thiruppathur for evicting the tenant on the ground of sub letting denial of title, owner's occupation, demolition and reconstruction. The said petition was dismissed by the rent controller on 19.02.2007.

3. The revision petitioner Sangam represented by its president one Rama Raththinam @ Chockkalingam had filed R.C.A.No.2 of 2007 before the Sub Court, Sivagangai. Pending appeal, the President had passed away on 20.12.2008. When the appeal was taken up for hearing



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on 15.06.2011, it was dismissed for default due to the non-appearance of the appellant.

4. One Vasu, who got elected himself as the President on 06.08.2014 had filed the application in I.A.No.229 of 2015 to condone the delay of 1213 days in filing an application to restore the appeal. This application came to be dismissed by the appellate authority. Challenging the same, the present revision petition has been filed.

5. According to the learned Counsel appearing for the revision petitioner, after the death of the President, namely, Rama Raththinam @ Chockkalingam, election was conducted to the Society only in the year 2014 and the said Vasu was elected as the President only on 06.08.2014. Within a period of two months, the application under Section 5 of the Limitation Act came to be filed on 10.10.2014. Therefore, the appellate authority was not right in dismissing the application on the ground that other office bearers could have very well prosecuted the appeal. He further contended that the Association is the owner of the property and the tenant having sub let the property is not paying rent regularly to the Sangam and therefore, he prays for allowing the revision petition and to restore the appeal.



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6. All the respondents have been served. The learned counsel appearing for the 3rd respondent submitted that they are only a formal party and they have no submission to make.

7. A perusal of the records indicate that the delay in filing an application to restore the appeal has happened only due to the delay in electing the new President of the Society. Considering the fact that the delay has been properly explained and the Society should not suffer, this Court is inclined to set aside the order passed by the trial Court in I.A.No.229 of 2015.

8. Accordingly, this Civil Revision Petition stands **allowed**. R.C.A.No.2 of 2007 stands restored to the file. The said appeal shall be disposed of on merits and in accordance with law on or before **31.12.2024** after giving due opportunity to the parties. No costs.

13.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

WEB COPY

- 1.The Rent Control Appellate Authority /
Subordinate Judge,
Sivagangai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
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