

C.R.P.Nos.3684 & 3685 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.Nos.3684 & 3685 of 2024

C.M.P.Nos.19990 & 19991 of 2024

A.V.Sudarsanam (Deceased)

Rep by Legal Representative

Mrs.Deekshitha

Door No.395, Ground Floor,

School Road, Anna Nagar West Extension,

Chennai - 600 101.

(Cause title accepted vide Court order

dated 29.08.2024 made in C.M.P.No.18745/2024 in

C.R.P.Sr.No.109602/2024 By VLNJ) ...Petitioner

in both C.R.P.'s

Vs

Kalaivani

...Respondent

in both C.R.P's

PRAYER in C.R.P.No.3684 of 2024:- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the Fair and Decretal order dated 18.04.2024 passed in M.P.No.2 of 2023 in R.L.T.O.P.No.480 of 2022 on the file of XIV Small Causes Court ,Chennai.

PRAYER in C.R.P.No.3685 of 2024:- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the Fair and



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Decreetal order dated 18.04.2024 passed in M.P.No.1 of 2023 in R.L.T.O.P.No.480 of 2022 on the file of XIV Small Causes Court ,Chennai.

In Both C.R.P's:-

For Petitioner : Mr.A.K.Sriram(SeniorCounsel)
for Mr.P.Hari Babu
For Respondent : M/s.K.Nithyashree

COMMON ORDER

Aggrieved by the order condoning the delay of 290 days in filing an application to set aside the ex-parte order in R.L.T.O.P.No.480 of 2022 on the file of the XIV Small Causes Court, Chennai, the legal representative of the deceased respondent/landlord is the revision petitioner before this Court.

2.The facts are briefly set out herein below:-

The deceased landlord was the absolute owner of the property situate in the 1st floor of Plot No.395, School Road, Anna Nagar, West Extension. He had leased out the suit premises to the respondent for carrying on the business under the name and style of "Bharath Computer System". The tenancy was for a commercial purpose. The deceased landlord and the tenant had entered into a rental agreement dated 04.02.2019, in and by which the monthly rent was fixed at a sum of Rs.42,000/- and a sum of Rs.2,00,000/- was paid as refundable advance amount. Even after expiry of the tenancy



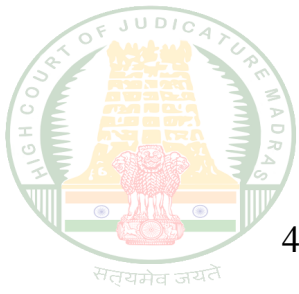
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period, the same was not renewed and with effect from March 2020 the

respondent had committed default in the payment of the monthly rentals.

Meanwhile the new tenancy law namely the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 came into effect. The landlord had issued a legal notice dated 07.12.2020 to the respondent and after receipt of the said notice the respondent had remitted a lump sum amount which was adjusted towards the rents upto the period January 2021. The respondent had also expressed an intention to surrender the premises within a period of six months.

3.However, contrary to this assurance neither did the tenant vacate the premises nor did they pay the rental arrears. Therefore, yet another legal notice dated 18.11.2021 was issued directing the respondent to clear the rental dues accumulated to the tune of Rs.3,78,000/- and directed them to deliver vacant possession of the property on or before 30.11.2021. The respondent who received the legal notice had neither chosen to surrender the premises nor cleared the rental arrears or execute a fresh lease agreement. Thereby, constraining the landlord to initiate proceedings for eviction in R.L.T.O.P.No.480 of 2022.



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4.The respondent had received notice from the Rent Court and had entered appearance through counsel. However, she did not prosecute the same by filing a counter and ultimately by order dated 27.01.2023 eviction was ordered on the ground that there was no written tenancy agreement between the landlord and the tenant and held that the landlord was entitled to relief under Section 21 (2) b of the Act. Thereafter the landlord had sought to execute the order of eviction of the Rent Court by filing E.P.No.593 of 2023 in the month of April 2023. The tenant had entered appearance before the Execution Court on 25.08.2023, but failed to file a counter till 11.10.2023. Therefore, on 11.10.2023 the respondent was set ex-parte and an order of delivery was passed on 10.11.2023. An application for broke up and Police protection was also filed.

5.Thereafter, the tenant had filed E.A.No.1 of 2023 to set aside the order of delivery and M.P.No.1 of 2023 in R.L.T.O.P.No.480 of 2022 to condone the delay of 290 days in filing application to set aside the order of eviction passed in R.L.T.O.P. The original landlord had executed a settlement deed dated 06.01.2022 in and by which he had bequeathed 70% of UDS in favour of the petitioner herein and the remaining 30% in favour of his son A.S.Sudhakar. The original landlord had passed away on 14.05.2024



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and the petitioner being the holder of the larger share continued the proceedings.

6.By order dated 18.04.2024 the Miscellaneous Petitions were allowed on payment of cost of Rs.2000/- each in the applications. Aggrieved by the same, the petitioner/landlord is before this Court.

7.Mr.A.K.Sriram, the learned Senior Counsel appearing on behalf of the revision petitioner would submit that the Rent Court has failed to appreciate the false statement that has been pleaded in the applications for setting aside the ex-parte order as well as for condoning the delay. In the affidavit filed in support of the applications the respondent/tenant has come forward with the case that on 26.08.2023, when the notice in the Execution Petition E.P.No.593 of 2023 was affixed on his door informing about the hearing on 28.08.2023, he was in for a shock. It was only after she had entered appearance in the execution proceedings that she had come to know about the order passed in R.L.T.O.P.No.480 of 2022. The respondent would state that she has not been served with any notice or summons in the R.L.T.O.P. proceedings. She would further submit that on the given date she had appeared in person before the Executing Court and the matter was



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posted for counter. Since the respondent was not in a position to engage a counsel on account of her poor financial stage the Court had directed her to approach the District Legal Aid Authority, Chennai. Thereafter, she had approached the authority and had nominated a counsel on 15.09.2023 to prosecute her case before the Executing Court. It is through this counsel she had come to know about the ex-parte order in R.L.T.O.P. Her counsel had filed a vakalath in R.L.T.O.P.No.480 of 2022 on 13.10.2023. She could not immediately file counter as she did not have the papers. Therefore, on account of the fact that she was kept in the dark about the pendency of the R.L.T.O.P. she could not file set aside application in time and ex-parte order has been passed. The counsel would further submit that the petitioner as on date is in arrears of more than Rs.20,00,000/-. In the counter filed by the petitioner/landlord the petitioner has highlighted suppression on the part of the respondent. The petitioner had highlighted the fact that the respondent had entered appearance on 23.09.2022 through counsel and the matter was posted for counter on 20.10.2022. Therefore, since the counter was not filed ultimately the respondent was set ex-parte on 08.11.2022. The eviction was on the ground of there being no agreement between the petitioner and the respondent. It was further argued that the respondent had appeared in the execution proceedings on 02.09.2023, but have not taken steps to set aside



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the ex-parte order immediately, but chose to continue to participate in the execution proceedings. Ultimately the application to set aside the ex-parte order has been filed only in December 2023 with the delay. The learned counsel would also draw the attention of this Court to the typed set of papers that have been filed on the side of the respondent wherein they have annexed photographs stating that the door had been sealed by the petitioner/landlord and the date given in the said photograph is 21.12.2021. The learned counsel also submit that the respondent/tenant is no longer in occupation of the property. If this was true there was no necessity to file any application for evicting the respondent from the premises.

8.He would also draw the attention of this Court to a letter dated 02.05.2022 which has been sent by the respondent to the Assistant Engineer, Electricity Board, Anna Nagar, requesting the Electricity Board to switch on the current supply that had been cut off by the landlord. The same request is once again renewed on 03.08.2024. All of which according to the counsel would only go to show that the building has not been used. That apart the current consumption charges table would also indicate that after 20.01.2022 there has been no reading, since the building was unoccupied. Therefore, considering the fact that the Rent Court had proceeded to allow the



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applications for condoning the delay totally overlooking the suppression of the facts and relying upon these false facts the order has to be necessarily set aside.

9.Per contra, the learned counsel appearing on behalf of respondent/tenant would submit that the respondent/tenant is in occupation of the premises. But, however, she has no response to the documents now filed on her side which would go to show that the respondent is not in possession of the premises as on date.

10.Heard the learned counsels on either side and perused the records.

11.The respondent/tenant has filed applications to condone the delay of 290 days in filing an application to set aside the ex-parte decree on the ground that she had not been served notice in the R.L.T.O.P. proceedings. It is her contention that she had come to know about the ex-parte order only when notice in the execution proceedings had been served on her. This statement of the respondent has been proved to be a false. As the records would reveal that one Mr.V.Venkatesan, the Advocate had entered appearance on her behalf of 23.09.2022 in the R.L.T.O.P. proceedings. The



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respondent/tenant was set ex-parte on account of non filing of the counter and thereafter three months later the order of eviction came to be passed against the respondent/tenant. The execution petition was filed on 26.04.2023 and the tenant had entered appearance in person on 02.09.2023, thereafter through counsel on 22.09.2023 and on 11.10.2023, the tenant was set ex-parte and delivery order was passed on 10.11.2023. On 14.12.2023, an application to set aside the ex-parte order both in the execution proceedings and in the R.L.T.O.P. has been taken on the side of the respondent. This would clearly go to prove that the respondent has come to Court with totally false case and therefore, this Court is constrained to set aside the order of the Rent Court condoning the delay of 290 days in filing the application for setting aside the ex-parte order in R.L.T.O.P.No.480 of 2022. The documents would show that not only respondent in arrears of a sum of Rs.20,00,000/- to date, but has also kept the property under lock and seal. The respondent/tenant has not been able to dispel the fact that a false statement has been made to the Court. The tenant who is not even occupying the property from 2021 has successfully managed to drag on the proceedings to date. Therefore, Civil Revision Petitions are allowed and the order passed in M.P.Nos.1& 2 of 2023 in R.L.T.O.P.No.480 of 2022 on the file of XIV Small Causes Court ,Chennai, is set aside. At this juncture the counsel for



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the respondent would submit that the respondent's articles and things are still in the petitioner's premises. She would submit that key is with the petitioner/landlord. Since they had locked the premises, however, this statement is refuted by the learned Senior Counsel on instructions from the counsel for the petitioner, both the counsels agreed that in case the key to the lock put on the petition premises not available then the lock could be broke open and the respondent can be permitted to remove the things contained therein. The petitioner/Landlord shall intimate the date of which the respondent should be present for the aforesaid purpose.

12.The Civil Revision Petition are allowed with the above directions.

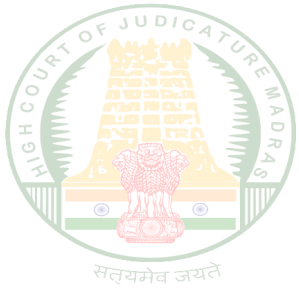
No costs. Consequently, connected miscellaneous petitions are closed.

26.03.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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To

The XII Assistant City Civil Court at Chennai.



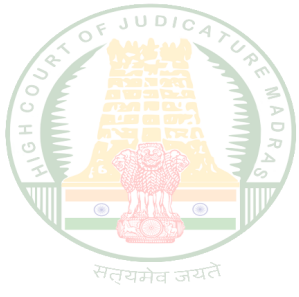
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