



CRP NPD.No.109 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 21.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP NPD No.109 of 2025 & CMP.No.849 of 2025

Moonshine De-Addiction cum Rehabilitation Centre,
Represented by its Managing Trustee Sri Sathyaseelan
No.1,2/193, 4th Street, Selvaganapathy Nagar,
Thiruverkadu, Chennai – 600 077.

. . . Petitioner

Versus

R.Mahimairaj Lawrence
Rep. by his Power Agent Mr.R.Sahaya Mahimaidoss
No.155/5, Selva Vinayagar Koil Street,
S.V.Nagar Post, Sadhanandapuram, Chennai – 600 063. . . . Respondent

PRAYER : Petition filed under Section 115 of Code of Civil Procedure against the Order passed in I.A.No.1 of 2024 in O.S.No.170 of 2015 dated 04.12.2024 on the file of the Subordinate Judge, Chengalpet.

For petitioner : Mr.J.William Shakesphere



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ORDER

Challenging the dismissal of the application filed to condone the delay of 1905 days in filing an application to set aside the exparte decree dated 04.10.2018 in O.S.No.170 of 2015, the present Civil Revision Petition has been filed.

2. Brief facts of the case is as follows :

The suit in O.S.No.170 of 2015 has been filed by the respondent for directing the defendant to vacate and hand over vacant possession. It is the dcase of the plaintiff that the defendant was inducted as a tenant on 01.09.2012 and an agreement has also been entered between the parties in this regard. The monthly rent was fixed as Rs.20,000/- and the lease agreement was originally entered for a period of 11 months. As revision petitioner has failed to pay the rent from September 2013 onwards, the suit came to be filed and the suit has been decreed exparte on 04.10.2018. Thereafter, the revision



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petitioner filed an application to condone the delay of 1905 days in filing an application to set aside the exparte decree. The reasons assigned by the revision petitioner in the affidavit filed in this regard is that when he attended an enquiry before the police authority on 16.12.2023 on the basis of the complaint given by the respondent, he came to know that the suit came to be filed by the respondent in the year 2015. Thereafter, he verified the Court diary and came to know that one of his staff received the notice and the same has not been informed to the petitioner. Further, the summons received in this regard has also been misplaced in their office. Therefore, it is the contention of the revision petitioner that he is not aware of the proceedings of the suit in time. Therefore, there is a delay of 1905 days in filing an application to set aside the exparte decree. The said application has been dismissed by the trial Court finding that the reason assigned by the petitioner is false. Challenging the same, the present revision has been filed.

3. The main submission of the learned counsel for the petitioner is that the revision petitioner has entered into an agreement with respondent and after



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entering into an agreement, he came to know that the property belong to the Government and the revision petitioner has paid all the dues to the local authorities. Therefore, he cannot be evicted from the property.

4. I have perused entire materials. As far as the aspect of condoning the huge delay, the specific case of the petitioner that he came to know about the exparte decree only on 16.12.2023. According to him, summons received by his staff has not been informed to him. Therefore, he could not appear in time. The very reason assigned in the affidavit filed along with application to condone such a huge delay is nothing but false statement. The trial Court has, infact, recorded factual finding that the defendant has appeared in the above suit through his counsel on 14.12.2015 and thereafter, he has changed his counsel and filed vakalat on 15.04.2016 and thereafter the case was adjourned for several hearing from 07.06.2016 to 13.07.2017 for filing written statement. However, as the written statement has not been filed, the revision petitioner was set exparte and thereafter, on the basis of the evidence adduced on the side of the plaintiff, the suit was decreed on 04.10.2018 Therefore, the



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petitioner has already engaged a lawyer in the year 2015 and he has not filed the written statement till 2017 and now a new theory has been invented as if he is not aware of the proceedings and that the notice served in the office has been misplaced and therefore, he could not appear. When a person has come to the Court with false details and unclean hands, no sympathy could be shown to him.

5. The other contention raised by the petitioner is that the property belongs to the Government and therefore, he is not be liable to be evicted. It is relevant to note that the very fact that he was inducted as a tenant and entered into an agreement in this regard is not disputed by himself, which was made clear in the counter filed in I.A.No.352 of 2015. Once the revision petitioner has admitted in his pleadings that he was a tenant under the respondent, he cannot dispute the title of the landlord and he is estopped from denying the title as per Section 116 of the Indian Evidence Act and Section 122 of BSA, 2023. Hence, I do not find any merits in this revision petition.



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6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

7. After dismissal of the Civil Revision Petition, the learned counsel appearing for the revision petitioner would submit that now Execution Petition is posted on 29.01.2025 for delivery. According to him, there are some patients inside the building and they require some reasonable time for vacating the premises. His statement is recorded. In such case, let the revision petitioner file an undertaking affidavit seeking reasonable time before the Executing Court. On such undertaking affidavit filed before the Executing Court, let the Execution Court grant reasonable time to the revision petitioner to vacate the premises.

21.01.2025

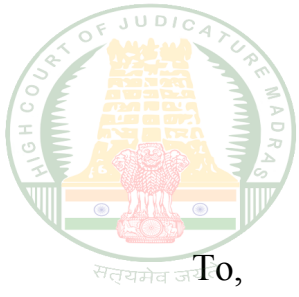
Index : Yes / No

Internet: Yes

Speaking/non speaking order

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To,

The Subordinate Judge, Chengalpet.

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N. SATHISH KUMAR, J.

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