

Ambika Murali vs Tmt. Valliammal And Anr. Etc. on 7 October, 2021

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Bench: Abhay S. Oka, Ajay Rastogi

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 9355-9356 OF 2010

MRS. AMBIKA MURALI

APPELLANT(S)

VERSUS

TMT. VALLIAMMAL & ANR. & ETC.

RESPONDENT(S)

O R D E R

The appellant-landlord is before us questioning the common impugned order dated 18.09.2009 passed by the High Court of Judicature at Madras, pursuant to which the application filed by the respondent-tenants seeking condonation of delay of 175 days in questioning the ex-parte decree dated 27.02.2004 was allowed. In consequence thereof, ex-parte decree was set aside.

The operative part of the order passed by the High Court under the order impugned dated 18.09.2009 is quoted herein below:

“12. xxxxx In the result, the Revision Petitions are allowed and the impugned orders passed by the Courts below are hereby set aside. The second petitioner is directed to pay a cost of Rs.5000/- to the respondent. The Rent Controller is directed to take RCOP 2270 and 2271 of 1994 on its file and dispose of the same on merits after giving opportunity to both sides for adducing necessary evidence. No costs.” The brief facts manifest from the record are that the appellant-landlord initiated the rent control proceedings before the Rent Controller in RCOP Nos. 2270-2271/1994 impleading the present respondents as tenants. The Eviction Petition was filed primarily on three grounds; (i) willful default, (ii) unauthorized subletting and (iii) creating additional

accommodation. Pending proceedings, applications were filed by the appellant-landlord to direct the tenants to deposit the arrears of rent. However, on 10.02.2004, the Rent Controller passed an ex-parte order directing the tenants to deposit the arrears of rent. Subsequently, since the conditional order dated 10.02.2004 was not complied with by the respondents-tenants as alleged, the Rent Controller by an order dated 27.02.2004 allowed the Eviction Petition by passing an ex-parte decree.

It has been alleged by the respondents in their applications filed for setting aside ex-parte decree that they came across about the ex-parte decree of eviction dated 27.02.2004 at the stage when the Court Amin came to take possession of their shops. Affecting the delivery of possession, immediately application was filed by the respondents for setting aside ex-parte decree of eviction dated 27.02.2004 with an application seeking condonation of delay of 175 days.

The Rent Controller dismissed their application seeking condonation of delay by an order dated 07.02.2005, which finally travelled to the High Court and the High Court in its revisional jurisdiction after taking into consideration the material on record, arrived to the conclusion that the delay of 175 days was bona fide and has been satisfactorily explained and allowed the application seeking condonation of delay of 175 days. In sequel thereof, the ex-parte decree was set aside and the matter was remitted back to the Rent Controller to hear the parties on merits.

After we have heard learned Counsel for the parties, we do not find any error being committed by the High Court in passing of the impugned order which may call for our interference.

Consequently, the Appeals fail and are dismissed. Pending application(s), if any, shall stand disposed of.

.....J (AJAY RASTOGI)J (ABHAY S.
OKA) NEW DELHI;

OCTOBER 07, 2021.