

C.R.P.(NPD).No.219 of 2014**ABDUL QUDDHOSE, J.**

Today the matter is listed under the caption “for extension of time”.

2. This Court by order dated 30.10.2017 dismissed CRP (NPD) No.219 of 2014 by directing the trial Court to dispose of the suit O.S.No.229 of 2006 on the file of learned District Munsif, Gobichettipalayam, within a period of four months from the date of receipt of a copy of that order. The learned District Munsif, Gobichettipalayam has addressed a letter dated 11.08.2018 to the Registry seeking extension of time for the reasons stated in the said letter.

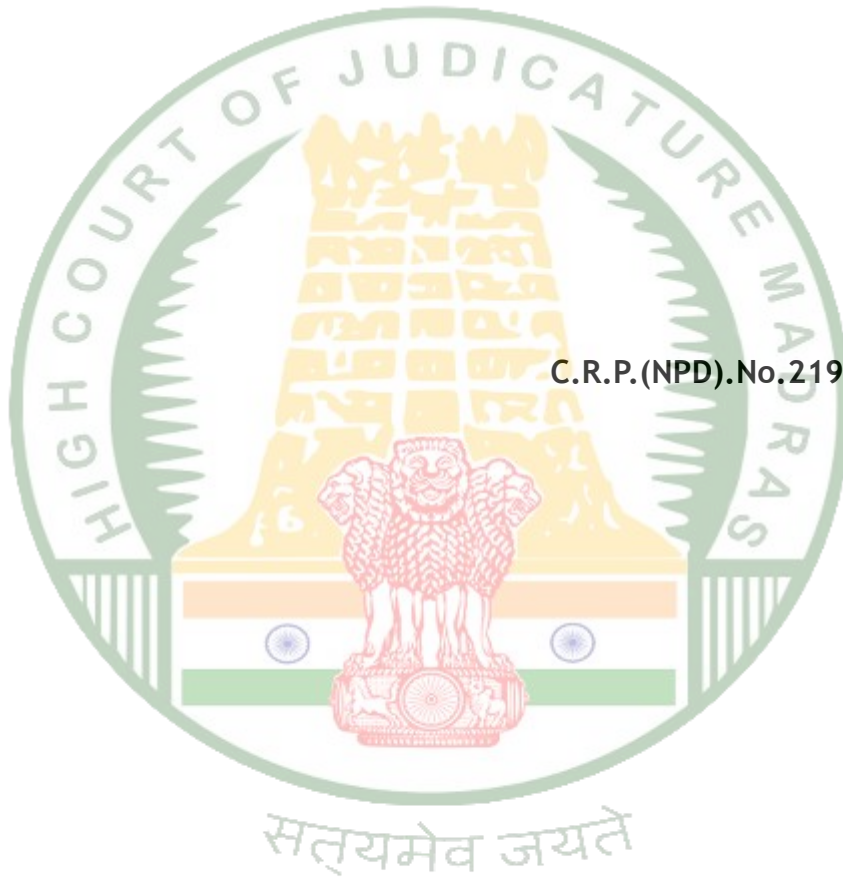
3.This Court perused the letter dated 11.08.2018 sent by the learned District Munsif, Gobichettipalayam and satisfied with the reasons for not disposing of the suit within the time stipulated by this Court in the order dated 30.10.2017 in CRP (NPD) No.219 of 2014. Accordingly, this Court grants further time of six months for the trial Court to dispose of the suit in O.S.No.229 of 2006 from the date of receipt of the communication of this order from the Registry.

27.06.2019

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ABDUL QUDDHOSE, J.

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C.R.P.(NPD).No.219 of 2014

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27.06.2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.219 of 2014
& M.P.No.1 of 2014

V.P.Piragatheeswaran

.. Petitioner

Vs.

The Block Development Officer,
Nambiyur Panchayath Union,
Nambiyur Post,
Gobichettipalayam Taluk,
Erode District.

.. Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decretal order dated 11.09.2013 made in I.A.No.393 of 2012 in O.S.No.229 of 2006 on the file of the District Munsif Court, Gobichettipalayam.

For Petitioner : Mr.N.Manokaran
For Respondent : No appearance

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 11.09.2013 made in I.A.No.393 of 2012 in O.S.No.229 of 2006 on the file of the District Munsif Court, Gobichettipalayam.

2. The petitioner is the plaintiff and respondent is the second

defendant in O.S.No.229 of 2006 on the file of the District Munsif Court, Gobichettipalayam. The petitioner filed the said suit for permanent injunction restraining the President, Vemandampalayam Panchayath Board/first defendant and the second defendant/respondent herein from removing the canopy and the cement flooring over the front yard of the suit and from interfering with the petitioner's peaceful possession and enjoyment of the suit property. The respondent entered appearance and did not file written statement. The respondent was set exparte and exparte decree was passed. The respondent filed I.A.No.393 of 2012 to condone the delay of 1699 days in filing the application to set aside the exparte decree.

3. According to the respondent, due to pressure of official work, they could not file written statement and prosecute the suit. The Government Pleader appeared for the respondent was also engaged in other Courts and hence, there was no representation on behalf of the respondents on the date of hearing. Subsequently, the case file got mixed up with other files and it was traced out only recently and the respondent filed the present application

immediately. Therefore, the delay is neither wilful nor wanton.

4. The petitioner filed counter affidavit and opposed the said application. According to the petitioner, the respondent disobeyed the decree. The petitioner filed E.P.No.29 of 2010 to execute the decree. The petitioner entered appearance in the said E.P and filed counter on 24.08.2010. In the counter, the respondent did not say anything about the missing of the file. The respondent has come out with the present application only to drag on the proceedings. He has not given any valid and sufficient reason for condoning the delay of 1699 days and therefore, he prayed for dismissal of the application.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and the relief sought for in the suit, allowed the application on condition that the respondent shall pay a sum of Rs.1,000/- to the petitioner by holding that an opportunity must be given to the respondent to put forth their case on merits.

6. Against the said order dated 11.09.2013 made in I.A.No.393 of 2012, the present Civil Revision Petition is filed by the petitioner.

7. Heard the learned counsel for the petitioner and perused

the materials available on record. Though respondent entered appearance through counsel, today there is no representation on behalf of the respondent.

8. The learned counsel appearing for the petitioner submitted that the respondent has not given valid and sufficient reason for such a huge delay and the learned Judge has passed order in a causal manner causing prejudice to the petitioner. He relied on the following judgment reported in **(2013) 14 Supreme Court Cases 81 (Basawaraj and another Vs. Special Land Acquisition Officer)**, in support of his contention:

"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result following from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to

enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

...

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15. The law on the issue can be summarised to the effect that where a case has been presented in the Court beyond limitation, the applicant has to explain the Court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the Court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No Court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the Court on time condoning the delay without any justification, putting any condition

whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

9. It is a well settled that application for condoning the delay must be considered liberally and length of delay is not a criteria. The Courts must see whether the parties have given acceptable and valid reason and the intention of the parties is bonafide and not malafide. The parties should not be shut down at the threshold itself and they must be given an opportunity to put forth their case on merits.

10. From the materials available on record and order of the learned Judge, it is seen that the respondent is taking steps to remove the structure put up by the petitioner in front of his house to lay down the road. In the circumstances, the respondent must be given an opportunity to put forth their case on merits. The respondent has given valid reason for their non-appearance and the reason for delay.

11. The learned Judge considering all the above facts and also

taking into consideration of the relief sought for in the suit, condoned the delay and has compensated the petitioner by awarding a cost of Rs.1,000/-. In the circumstances, there is no irregularity or illegality warranting interference with the order passed by the learned Judge dated 11.09.2013.

12. In the result, the Civil Revision Petition is dismissed. The learned Judge is directed to dispose the suit in O.S.No.229 of 2006 within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

30.10.2017

Index : Yes/No
dm/kj

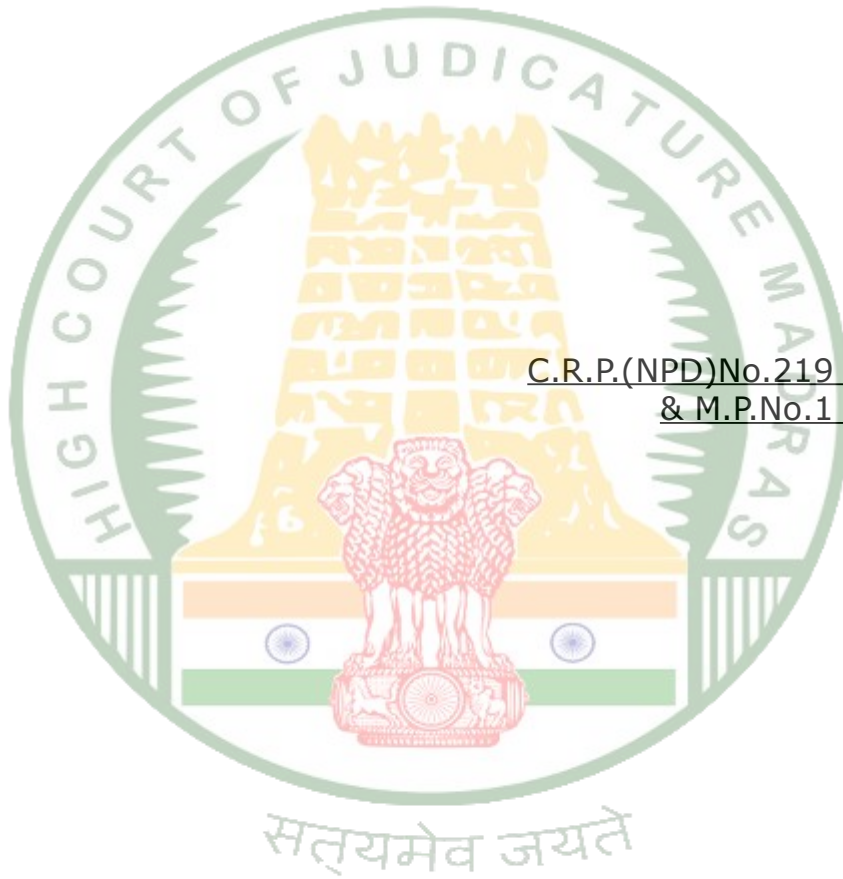
Note: The Registry is directed to send a copy of this order to the respondent directly.

To

1. The District Munsif,
Gobichettipalayam.
2. The Block Development Officer,
Nambiyur Panchayath Union,
Nambiyur Post, Gobichettipalayam Taluk,
Erode District.

V.M.VELUMANI, J.

dm/kj



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& M.P.No.1 of 2014

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