

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.NPD.No.4108 of 2017

and

CMP.No.19240 of 2017

Selvakumari

..Petitioner

Vs.

Chennai Metropolitan Water & Sewerage Board,
Rep.by the Divisional Engineer, Division-5,
Chennai Metropolitan Water & Sewerage Board,
No.227, 2nd Avenue, Anna Nagar,
Chennai-600 040.

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code against fair and decreetal order dated 09.08.2017 passed in CMP.No.1098 of 2016 in AS(SR).No.36857 of 2012 on the file of the Principal Judge, City Civil Court, Chennai

For petitioner : Mr.K.Lavan

ORDER:

The petitioner has filed a suit in OS.No.6612 of 2010 for permanent injunction before the City Civil Court, Chennai. According to the petitioner, the respondent department has coercively attempted to evict the petitioner from the suit property. Therefore, the petitioner has filed the suit in OS.No.6612 of 2010. The respondent has filed written statement. In the above written statement, it has been stated that the aforesaid suit property along with adjoining property, the defendant/ respondent has taken possession on 23.04.1986 from the Tamil Nadu Housing Board. The respondent is in absolute possession of the said property. In the written statement, it has been stated that the defendant is in possession of the suit property and the adjoining property. The above said suit was dismissed by the trial court on 12.04.2012. Challenging the above Judgment and Decree, the petitioner has presented an appeal in AS.SR.No.36857 of 2012 along with condone delay petitioner in CMP.No.1098 of 2016 before the before the City Civil Court, Chennai on 21.08.2012. The same was returned on 20.09.2012 for rectifying the defects in the said appeal. The petitioner has re-presented the same only after an inordinate delay of 1414 days. The application in CMP.No.1098 of 2016 for condoning the delay in re-presentation of 1414 days was dismissed.

Therefore, the petitioner has filed the present Civil Revision Petition before this Court.

2. The said suit has been filed by the petitioner for permanent injunction. The specific case of the respondent / defendant is that defendant has taken possession of the property on 23.04.1986. The trial court has dismissed the suit, aggrieved by the same, the appeal has been filed. The petitioner has not represented the said papers within the reasonable time, with sufficient reasons. The trial court has rightly dismissed the said application.

3. At this juncture, it is useful to extract the judgment of the Hon'ble Supreme Court in the case of **H.DOHIL CONSTRUCTIONS COMPANY PRIVATE LIMITED Vs. NAHAR EXPORTS LIMITED AND ANOTHER**, reported in **(2015) 1 SCC 680**, wherein it is held as follows:

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*The filing of an application for condoning
the delay of 1727 days in the matter of refiling
without disclosing reasons, much less satisfactory
reasons only results in the respondents not*

deserving any indulgence by the court in the matter of condonation of delay. The respondents had filed the suit for specific performance and when the trial court found that the claim for specific performance based on the agreement was correct but exercised its discretion not to grant the relief for specific performance but grant only a payment of damages and the respondents were really keen to get the decree for specific performance by filing the appeals, they should have shown utmost diligence and come forward with justifiable reasons when an enormous delay of five years was involved in getting its appeals registered.

4. In the light of the above decision, in the present case on hand, there is no particulars have been furnished to condone the inordinate delay of 1414 days delay in representing the appeal papers this Court is not inclined to interfere with the orders passed by the court below.

5. In view of the facts and the decision cited supra, for

the foregoing reasons, in the interest of justice, the Civil Revision Petition fails and accordingly Civil Revision Petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

13.11.2017

Speaking/Non-speaking order
Index : Yes/No
Internet: Yes/No
lok

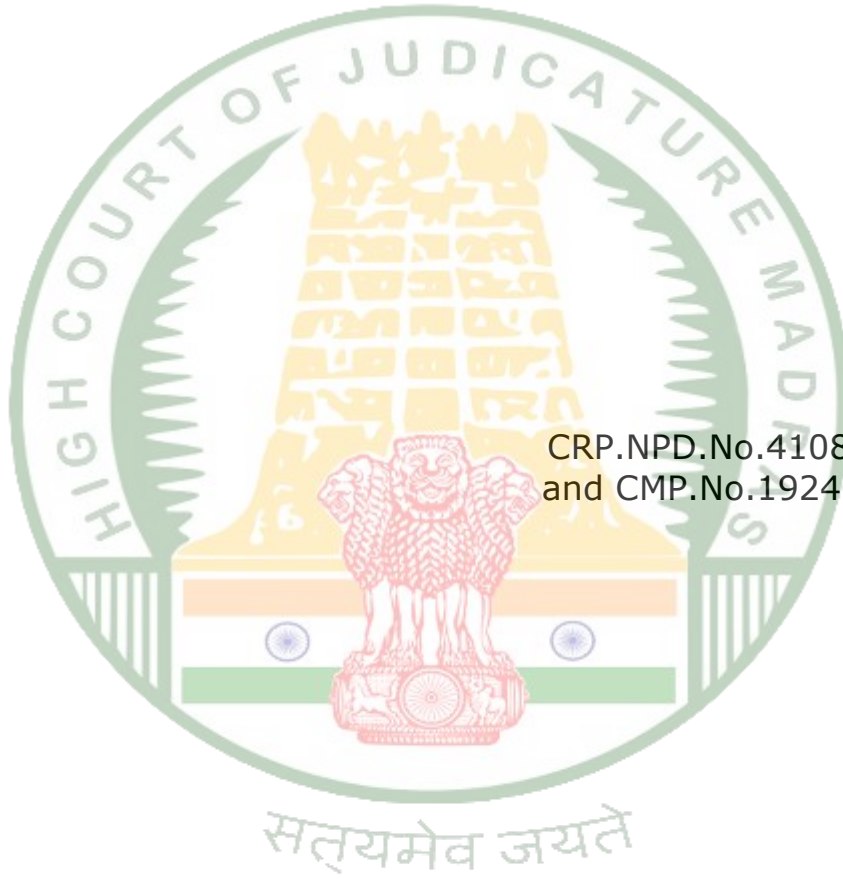


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D.KRISHNAKUMAR. J,

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To
The Principal Judge,
City Civil Court,
Chennai.



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