

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2017

CORAM

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

CMP.No.13042 of 2017 and
SA.No.SR113323 of 2010

1. The District Collector,
Dharmapuri District,
Dharmapuri
 2. The Land Acquisition Officer,
Department of Adi Dravidar Welfare,
Harur.
- ..Petitioners

Vs.

Viswanathan

..Respondent

PRAYER:

The Civil Miscellaneous Petition is filed under Order IV Rule 9(4) of Appeal Suit Rules to condone the delay of 2375 days in re-presenting the above appeal in SA.SR.No.113323 of 2010.

For appellants : Mr.Jaya Rama Raj,
Government Advocate(CS)

ORDER:

The respondent has filed an appeal in LACMA.No.20 of 2004 before the Sub Court, Dharmapuri challenging against the

award No.6 of 1996 dated 06.12.1996 passed by the Special Tahsildar. In the aforesaid appeal, the appellate court enhanced the compensation amount awarded to the respondent / claimant. Challenging the aforesaid Judgment and Decree, the appellants have preferred this second appeal before this Court along with an application to condone the delay of 1156 days in filing the second appeal.

2. It is seen from the records that the above Judgment and Decree was passed by the Appellate court on 29.06.2007 and the copy application was submitted on 09.02.2010 and the same was made ready on 12.03.2010. Thereafter, the present appeal was filed on 23.12.2010 and the Registry returned the said appeal papers on 05.01.2011 for certain compliance in the second appeal papers. But the appeal papers were not re-presented within the stipulated time. The petitioner has stated in the affidavit filed in support of the condone delay petition that due to frequent transfers of concerned staff, the connected papers could not be traced out, which caused the delay in re-presenting the said appeal.

3. It is seen that the appellants had already filed an application for condoning the delay of 1156 days in filing the second

appeal and the same were returned for rectifying some defects. But, the papers have been re-presented with an inordinate delay of 2375 days. In the affidavit, no proper reasons have been furnished for condoning the delay in re-presentation.

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

" 24. 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."

5. In the light of the decision of the Hon'ble Supreme Court and since the petitioner has not furnished the particulars for the inordinate delay in re-presenting the second appeal, the Civil Miscellaneous Petition is dismissed. Consequently, connected second appeal is rejected at the SR stage itself. No costs.

17.08.2017

Speaking/Non-speaking order

Index :Yes/No

Internet :Yes/No

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To

1. The Subordinate Court,
Dharmapuri.
2. The Land Acquisition Officer
cum the Special Tahsildar,
Harur(ADW).



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D.KRISHNAKUMAR.J,

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