

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.04.2017**

CORAM:

THE HONOURABLE MR. **JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) Nos.3748 & 3749 of 2013 in
M.P.Nos.1 and 1 of 2013

1.The District Collector
Erode Collectorate, Erode.

2.The Tahsildar
Gobichettipalayam

...Petitioners in
both CRPs.

Versus

1.K.Marappan

.. 1st respondent in both CRPs.

2.The Commissioner
Gobichettipalayam Municipality
Gobichettipalayam.

... 2nd respondent
in C.R.P.PD.No.3748 of 2013

PRAYER in CRP.PD.No.3748 of 2013: Civil Revision Petition filed under Section 115 of C.P.C., against the judgment and decree dated 08.07.2013 in I.A.No.116 of 2011 in C.F.R.No.5102 of 2011(Appeal Section) on the file of the Sub-Court, Gobichettipalayam, Erode District.

PRAYER in CRP.PD.No.3749 of 2013: Civil Revision Petition filed under Section 115 of C.P.C., against the judgment and decree dated 08.07.2013 in I.A.No.12 of 2012 in I.A.No.116 of 2011 in

C.F.R.No.5102 of 2011(Appeal Section) on the file of the Sub-Court,
Gobichettipalayam, Erode District.

For Petitioners : Mr.T.Jayaramaraj
Government Advocate (CS)

For R1 : Mr.N.Manokaran
R2 : Served. No Appearance

COMMON ORDER

These two civil revision petitions are directed against the order dated 8 July 2013 dismissing the applications filed by the petitioners to condone the delay of 1344 days in presenting the appeal and declining to grant interim stay of the execution petition in E.P.No.88 of 2008.

2. The learned Government Advocate contended that the property in question was allotted to poor people by the Government by order dated 21 December 2000 and as such, the first respondent has no right to claim easementary right. According to the learned Government Advocate, the Revenue Department misplaced the bundle and that was the reason for delay in filing the appeal. The learned Government Advocate further contended that in case, the petitioners are permitted to prosecute the appeal, they would be in a position to place the materials before the first appellate Court.

3. The learned counsel for the first respondent justified the

orders passed by the learned Subordinate Judge, Gopichettipalayam. According to him, on an earlier occasion, this Court directed the revenue officials to remove the encroachment. Since there was no action taken by the revenue officials to remove the encroachment, the first respondent was constrained to file the suit in O.S.No.192 of 2003. According to the learned counsel, the first respondent has not claimed any right to the property and his attempt was only to obtain a pathway to make it as an access to his property.

4. The suit in O.S.No.192 of 2003 was contested by the petitioners. The Trial Court passed a decree and judgment on 4 October 2007. The petitioners failed to file appeal within the stipulated period.

5. The petitioners in the affidavit filed in support of the application in I.A.No.116 of 2011 contended that the case bundle was misplaced and as such, they could not file the appeal. There is nothing on record to show as to when the bundle was misplaced and as to when it was found. The affidavit is bereft of details. It is true that certain indulgence should be given to the Government in the matter of delay, taking into account the possible administrative delay. Even in such case, the Government should be in a position to justify the delay

by giving details. The affidavit is bereft of details. Therefore, I am of the view that the learned Trial Judge was correct in dismissing the I.A.No.116 of 2011.

6. The learned counsel for the first respondent contended that the land has already been allotted to the beneficiaries taking into account their income. I make it clear that the judgment and decree passed by the Trial Court would not amount to cancellation of patta given to the beneficiaries by the Government. It is always open to the beneficiaries to approach the Court to redress their grievances.

7. The Civil Revision Petitions are dismissed with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

07.04.2017

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To

The Sub-Court, Gobichettipalayam, Erode District.

K.K.SASIDHARAN,J.

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C.R.P.(P.D.) Nos.3748 & 3749 of 2013 and
M.P.Nos.1,1 of 2013

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