

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 06.02.2017****CORAM:****THE HONOURABLE MS.JUSTICE V.M.VELUMANI****C.R.P(MD)Nos.2115 & 2116 of 2014
and****M.P(MD)Nos.1 and 1 of 2014
& C.M.P(MD)Nos.12003 and 12004 of 2016**

Neelavathi ... Petitioner/Petitioner/
Appellant in C.R.P(MD)No.2115/2014

Anthony ... Petitioner/Petitioner/
Appellant in C.R.P(MD)No.2116/2014

Vs.

1.Sivakasi Hindu Nadar Pengal Melnilai Palli Committee,
Sivakasi, Through its Secretary,
Situating at Sivakasi,
Virudhunagar District.

2.The Secretary,
Sivakasi Hindu Nadar Pengal Melnilai Palli Committee,
Sivakasi,
Virudhunagar District. ... Respondents/Respondents/
Plaintiffs in both C.R.Ps

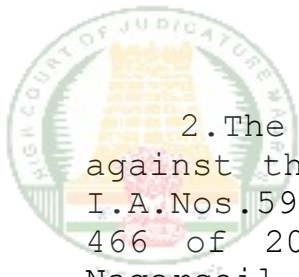
COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India against the fair and decreetal order, dated 23.07.2014 passed in I.A.Nos.59 of 2014 and 60 of 2014 in A.S.S.R.Nos.465 of 2014 and 466 of 2014 on the file of the learned Principal Sub Judge, Nagercoil.

For Petitioner : Mr.D.Nallathambi
(in both C.R.Ps)

For Respondents : Mr.D.Rajkumar
(in both C.R.Ps)

COMMON ORDER

Since both the issues are one and the same, common order is passed.
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2.The petitioners have filed both the Civil Revision Petitions against the fair and decreetal order, dated 23.07.2014 passed in I.A.Nos.59 of 2014 and 60 of 2014 in A.S.S.R.Nos.465 of 2014 and 466 of 2014 on the file of the learned Principal Sub Judge, Nagercoil.

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3.The respondents are the plaintiffs and the petitioner in both the Civil Revision Petitions are the defendant in the suit in O.S.Nos.241 of 2006 and 237 of 2006 on the file of the learned Principal District Munsif, Nagercoil. Both the suits have been filed for recovery of possession and mense profits. After contest, the said suits were decreed on 20.10.2008. The petitioners were directed to handover the petition premises within two months from the date of decree and pay arrears. The respondents were directed to demolish the property within three months from the date of delivery of possession by the petitioners and reconstruct within 18 months and the petitioners will be entitled to tenancy of scheduled property if he/she agrees to pay rental amount existing at that time. The petitioners filed first appeals along with I.A.Nos.59 of 2014 and 60 of 2014 to condone the delay of 824 days in representing the above appeals.

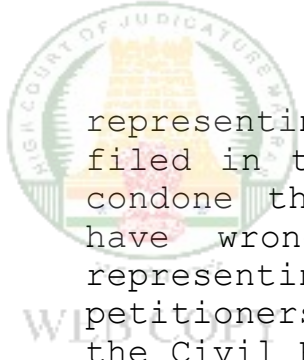
4.According to the petitioners, he/she was suffered from viral fever and were taking Ayurvedic treatment at Kerala and came to know the Judgment only when notice was received in the Execution Petitions. The delay is neither willful nor wanton, but due to the reasons stated above. The respondents filed counter-affidavit and submitted that the decree was passed on the admission of the petitioners that the possession would be handed over to the respondents within two months. The petitioners have not explained the delay properly and has not given valid reason to condone the delay.

5.The learned Judge considering the averments made in the affidavit and counter-affidavit dismissed both the applications holding that the petitioners have not given any valid and sufficient reason to condone the delay of 824 days in representing the above first appeals. Against the order of dismissal, the present Civil Revision Petitions are filed.

6.The learned counsel appearing for the petitioners submitted that the delay is only in representing the first appeal S.Rs and without notice to the respondents, the learned Judge has got power to condone the delay. The application to condone the delay must be considered liberally and the petitioners have given valid and sufficient reason for condoning the delay in representing the appeal memorandum and prayed for allowing the Civil Revision Petitions.

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7.The learned counsel appearing for the respondents submitted that it is not correct to state that there is a delay in



representing the papers. On the other hand, the appeals have been filed in the year 2014 and the applications have to be filed to condone the delay in filing the first appeals. The petitioners have wrongly mentioned the delay to condone the delay in representing the first appeals. The reason given by the petitioners is not true and sufficient and prayed for dismissal of the Civil Revision Petitions.

8. Heard the learned counsel for the petitioners and the learned counsel for the respondents and perused the materials available on record.

9. The learned counsel appearing for the petitioners vehemently contended that the delay of 824 days is not filing the appeals, it is only representing the appeals. The learned Judge ought to have considered the applications for representing the appeals liberally.

10. From the affidavit filed by the petitioners, it is seen that the petitioners have not given any valid reason, particularly when he/she suffering from viral fever and from which hospital he/she was taking treatment and when they received notice in E.P. From the records, it is seen that A.S.S.R.Nos.465 & 466 of 2014 are filed in the year 2014. The decree, dated 20.10.2008 was corrected as per order, dated 19.03.2012. The petitioners have not filed the appeals immediately. The petitioners have not given the date on which the first appeals were filed and when the same were returned and when he/she contacted their Advocate with regard to the stage of the first appeals. The applications filed by the petitioners are vague and bereft of particulars.

11. Considering the affidavit filed by the petitioners, the learned Judge has exercised his power conferred on him properly and dismissed the applications. There is no error or irregularity in the order passed by the learned Principal Sub Judge, Nagercoil, warranting interference of this Court. Hence, these Civil Revision Petitions are liable to be dismissed.

12. Accordingly, these Civil Revision Petitions are dismissed. Considering the fact that the decree is of the year 2008, the learned Principal District Munsif, Nagercoil is directed to dispose of the execution petitions in E.P.Nos.6 and 7 of 2014 as expeditiously as possible, in any event, not later than **30.06.2017**. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(Writs)

/True copy/



To

1.The Principal Subordinate Judge,
Nagercoil.

2.The Principal District Munsif,
Nagercoil.

+1 cc to M/s.D.Nallathambi, Advocate in SR.No.6540

+1 cc to M/s.D.Rajkumar, Advocate in SR.No.6706

PS

CSL/CM-MSA/23.02.2017 :4P/5C

**C.R.P (MD) Nos.2115 & 2116 of 2014
and
M.P (MD) No.1 of 2014
& C.M.P (MD) No.12004 of 2016Q
06.02.2017**