



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:18.01.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P. (MD)No.15295 of 2016

and

W.M.P. (MD)No11272 of 2016

S.Subburaj

... Petitioner

Vs.

1.The District Revenue Officer,
Theni District,
Theni.

2.The Revenue Divisional Officer,
Periyakulam,
Theni District.

3.The Tahsildar,
Periyakulam,
Theni District.

4.Ravikumar

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent dated 24.06.2014 in Moo.Mu.No.13302/2014/D4 communicated to the petitioner only on 04.03.2016 in Na.Ka.No.7016/2016/D4 and quash the same and consequently direct the first respondent to entertain the Revision dated 07.05.2014 filed by the petitioner.

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader
(R1 to R3)

No appearance (R4)

**ORDER**

This writ petition is filed challenging the order of the first respondent, dated 24.06.2014, wherein and whereby the revision filed by the petitioner was dismissed solely on the reason that the same was filed beyond the period of limitation.

2. In this writ petition, though notice was served on the fourth respondent by way of substituted service, he has not chosen to appear either in person or through counsel. His name is printed in the cause list today.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3.

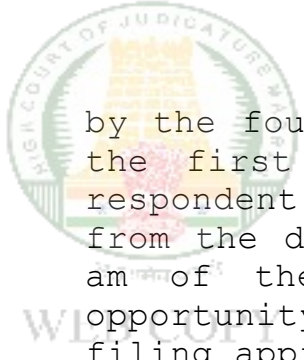
4. It is seen that the petitioner filed a revision before the first respondent arising out of a patta proceedings and challenging the order passed by the Revenue Divisional Officer, Periyakulam, dated 05.02.2014. The first respondent has chosen to reject the revision solely on the reason that the same came to be filed after 30 days from the date of the order passed by the Revenue Divisional Officer, Periyakulam. It is seen that the petitioner has filed the revision on 07.05.2014 and therefore, the delay would be hardly about 60 days.

5. The learned counsel appearing for the petitioner submitted that the first respondent is having enough power to condone the delay and decide the revision on merits. However, he fairly submitted that the petitioner by oversight has not filed any formal application seeking for condonation of delay. The main grievance of the petitioner before the first respondent in his revision is that the Revenue Divisional Officer has passed the order without hearing the petitioner or his counsel.

6. The learned counsel appearing for the petitioner in support of his contention relied upon a Judgment reported in 2006-4-L.W.390 (S.Ramachandran vs. The Special Commissioner and Commissioner for Land Administration and another) to substantiate that the petitioner's revision should have been entertained by calling upon the petitioner to file a petition to condone the delay.

7. On the other hand, the learned Additional Government Pleader appearing for the respondents 1 to 3 supported the order passed by the first respondent on the reason that the petitioner at the time of filing the revision has not chosen to file any application seeking for condonation of delay.

8. Considering the fact that this writ petition is not opposed



by the fourth respondent, who is the contesting respondent before the first respondent and considering the fact that the first respondent is having power to condone the delay as could be seen from the decision reported in 2006-4.L.W. 390 (as cited supra), I am of the view of that the petitioner should be given an opportunity to contest the matter before the first respondent by filing appropriate application seeking for condonation of delay.

9. Accordingly, this writ petition is allowed and the impugned order is set aside and the matter is remitted back to the first respondent for fresh consideration of the revision including by considering the application to be filed by the petitioner seeking for condonation of delay in filing such revision.

10. The petitioner shall file such application before the first respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such application seeking for condonation of delay, the first respondent shall hear such application in accordance with law and pass orders on the same after hearing the fourth respondent as well. If the first respondent is satisfied to condone the delay on such hearing, he shall proceed to decide the revision on its own merits and in accordance with law, after hearing both parties, within a period of twelve weeks from the date of condonation. Needless to say that this Court is not expressing any view on the merits of the matter, as it is for the first respondent to consider and decide. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The District Revenue Officer,
Theni District,
Theni.
2. The Revenue Divisional Officer,
Periyakulam,
Theni District.
3. The Tahsildar,
Periyakulam,
Theni District.

+1cc to Mr.M.P.Senthil , Advocate in SR. No.2999

+1cc to Mr.Special Government Pleader in SR. No.3083

skn

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