



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD) Nos.1856 & 1857 of 2016 (PD)

A.Karuthapandian

... Petitioner in both cases

Vs.

1.The Commissioner,
Hindu Religious & Charitable
Endowment Board,
Having office at Nungambakkam
High Road,
Chennai - 600 034.

2.The Assistant Commissioner,
Hindu Religious Endowment Board,
Having office at Trivandrum Road,
Palayamkottai, Tirunelveli.

... Respondents 1 and 2
in both cases

3.The Assistant Commissioner,
Hindu Religious & Charitable Endowment Board,
Thoothukudi.

...3rd Respondent
in CRP (MD) No.1857/2016

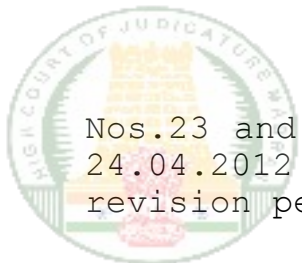
Common Prayer: Civil Revision Petitions are filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order passed in I.A Nos.23 & 32 of 2011 in unregistered A.S on the file of the Principal District Court at Thoothukudi dated 24.04.2012.

In both cases :

For Petitioner	: Mr.V.K.Vijayaraghavan
For Respondents	: Mr.M.Karuppasamy, Government Advocate

ORDER

The revision petitioner herein filed suits in O.S Nos.224 of 1996 and 127 of 1997 before the District Munsif Court, Tuticorin. The suits were instituted against the Hindu Religious Department. Suits were decreed. The department filed First Appeals with an inordinate delay of more than 3000 days. To condone the same, I.A



Nos.23 and 32 of 2011 were filed. The court below by order dated 24.04.2012 condoned the delay. Questioning the same, this civil revision petition has been filed.

2.The learned counsel appearing for the revision petitioner pointed out that the delay in filing the first appeals is inordinate. The affidavits filed in support of the condone delay petitions are bereft of details. He further contended and rightly so, the fact that the appeals have been numbered in the meanwhile cannot render the present civil revision petitions infructuous. In this regard, he placed reliance on the decision of the Hon'ble Supreme Court reported in AIR 1988 SC 897 (G.Ramegowda vs. Special Land Acquisition Officer, Bangalore).

3.Though these contentions urged by the learned counsel for the revision petitioner carry considerable weight and force, I am of the view that in cases such as this an indulgent view will have to be taken. The Hon'ble Supreme Court in the decision reported in 2005 (3) SCC 752 (State of Nagaland v. Lipok Ao) held as follows :

"It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay - intentional or otherwise - is a routine. Considerable delay of procedural red-tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process. The court should decide the matters on merits unless the case is hopelessly without merit. No separate standards to determine the cause laid by the State vis-a-vis private litigant could be laid to prove strict standards of sufficient cause. The Government at appropriate level should constitute legal cells to examine the cases whether any legal principles are involved for decision by the courts or whether cases require adjustment and should authorise the officers to take a decision or give appropriate permission for settlement. In the event of decision to file appeal needed prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any. Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by



way of an appeal or application since he is a person legally injured while State is an impersonal machinery working through its officers or servants.

4. The aforesaid decision was followed by the Madurai Bench of the Madras High Court in the decision reported in (2016) 1 CTC 481 (Kottar Chettu Nainar Desika Vinayagar Devaswom Trust v. Assistant Commissioner). Interestingly, that was a case arising under Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Questioning the decree obtained by the revision petitioner therein, the department filed a first appeal but with delay. The delay was condoned. The learned Judge held that when once the appellate court accepts the reasons as sufficient cause and condoned the delay by exercising its discretion, normally, the revisional court should not disturb such a finding unless it can be stated that the discretion was exercised in an arbitrary or perverse manner.

5. In the present case, I am of the view that the first appellate court thought it fit to condone the delay by accepting the reasons projected by the respondents herein. The appeals were numbered as early as in the year 2012. The appeals are to be taken up for enquiry shortly. Therefore, respectfully following the decision of the Madurai Bench of the Madras High Court reported in (2016) 1 CTC 481 (Kottar Chettu Nainar Desika Vinayagar Devaswom Trust v. Assistant Commissioner), I am not inclined to interfere with the discretionary order passed by the first appellate court. The orders impugned in these civil revision petitions are sustained. These Civil Revision Petitions are dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The Principal District Judge,
Thoothukudi.

Copy To:

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1 cc to Mr. V.K. Vijayaraghavan Advocate in sr.no.83976.

+1 cc to Special Government Pleader, SR.No.84044.

SKM

DS RP SAR1 12 11 2018 3P 6C