

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2019

CORAM

**THE HON'BLE MR.JUSTICE V.BHARATHIDASAN**

C.M.P.Nos.985,988,992,993,998,1001 & 1006 of 2019

in

S.A.SR.Nos.76073,76075,76077,76079,76081,76083 & 76087 of 2018

and

C.M.P.Nos.986,994,996,997,1000,1004,1007,7022,7027 to 7029,  
7031, 7033 ,7035 of 2019

- |                |                                         |
|----------------|-----------------------------------------|
| 1. Venugopal   | ... Petitioner in C.M.P.No.985 of 2019  |
| 2. M.Saravanan | ... Petitioner in C.M.P.No.988 of 2019  |
| 3. P.Sadasivam | ... Petitioner in C.M.P.No.992 of 2019  |
| 4. A.Moorthy   | ... Petitioner in C.M.P.No.993 of 2019  |
| 5. Mariamma    | ... Petitioner in C.M.P.No.998 of 2019  |
| 6. V.Munuswamy | ... Petitioner in C.M.P.No.1001 of 2019 |
| 7. Mr.X.John   | ... Petitioner in C.M.P.No.1006 of 2019 |

M/s.Abhirami Plantations,  
a registered partnership firm  
having its Registered Office at  
Door No.38 to 43, Gurrency Tea Factory,  
Coonor, Represented by its  
Managing Partner Mr.N.S,S.Annamalai. ... Respondents in all C.M.Ps

Prayer in C.M.P.Nos.985,988,992,993,998,1001 & 1006 of 2019 :

Civil Miscellaneous Petitions are filed to condone the delay of 1785 days in filing the S.A.SR.Nos.76073,76075,76077,76079,76081,76083 & 76087 of 2018.

For Petitioners : Mr.K.Lavan  
in all C.M.Ps

For Respondent : Mr.T.Sai Krishnan  
in all C.M.Ps

**ORDER**

C.M.P.Nos.985,988,992,993,998,1001 & 1006 of 2019 have been filed seeking to condone the delay of 1785 days in filing the S.A.SR.Nos.76073,76075,76077,76079,76081,76083 & 76087 of 2018 against the Judgment and Decree dated 30.08.2013 made in A.S.Nos.9,10,12,13,14,15 & 16 of 2013 on the file of the Subordinate Judge and Appellate Authority of Nilgiris at Udthagamandalam, confirming the Judgment and Decree dated 07.12.2012 made in O.S.Nos.118,119,121,126,127,130 & 132 of 2006 on the file of the District Munsiff, Coonoor.

2. The respondent herein has filed the suits for evicting the petitioners/appellants from the suit properties and claiming amount towards damages for the illegal use and occupation of the suit properties.

3. The suits have been decreed in favour of the respondent and the appeals filed by the appellants were dismissed by the Lower Appellant Court by Judgment and Decree dated 30.08.2013. Aggrieved by the same, the present Second Appeals have been filed with the delay of 1785 days.

4. The only reason stated in the affidavits filed in support of these petitions that since the earlier counsel of the petitioners failed to file second appeal, only on 10.08.2018, the petitioners applied for certified copy of the Judgments and Decrees dated 07.12.2012 and 30.08.2013. The said copy was made ready on 31.08.2018 and it was received by the petitioners on the same date, and then, it was handed over the present counsel. Hence, there is a delay of 1785 days in filing the above Second Appeals.

5. On perusal of the records, it is seen that the Judgment of the Lower Appellate Court was delivered on 30.08.2013, but, the copy application was filed by the petitioners on 10.08.2018. There is absolutely no reasons have been stated in the affidavits why the copy application was filed after the period of nearly 5 years and it is only

stated that the copy application was filed only on 10.08.2018 and it was made ready on 31.08.2018 and therefore, there is a delay of 1785 days in filing the above Second Appeals.

6. Considering the huge delay, this Court is not inclined to condone the delay of 1785 days in filing the above Second Appeals.

7. However, the learned counsel appearing for the appellants have filed an undertaking affidavit that the appellants would vacate the premises of the respondent within a period of six months from 15.04.2019.

8. The respondent has filed a memo that they gives up the claim for arrears towards damages for the illegal use and occupation of the suit schedule premises as against the appellants as decreed in O.S.Nos.118,119,121,126,127,130 & 132 of 2006 on the file of the District Munsif Court, Coonoor.

9. The undertaking affidavit filed by the appellants and the memo filed by the respondent are recorded.

10. Considering the undertaking affidavit filed by the appellants, this Court directs the appellants to vacate the premises of the respondent on or before 04.11.2019.

11. With these observations, the C.M.P.Nos.985,988,992,993, 998,1001 & 1006 of 2019 are dismissed. Consequently, the S.A.SR.Nos.76073,76075,76077,76079,76081, 76083 & 76087 of 2018 and C.M.P.Nos.986,994,996,997, 1000,1004,1007,7022,7027 to 7029,7031,7033, 7035 of 2019 are rejected.

16.04.2019

raja  
Index : yes/no  
Internet : yes/no  
Speaking order/non-speaking order

To

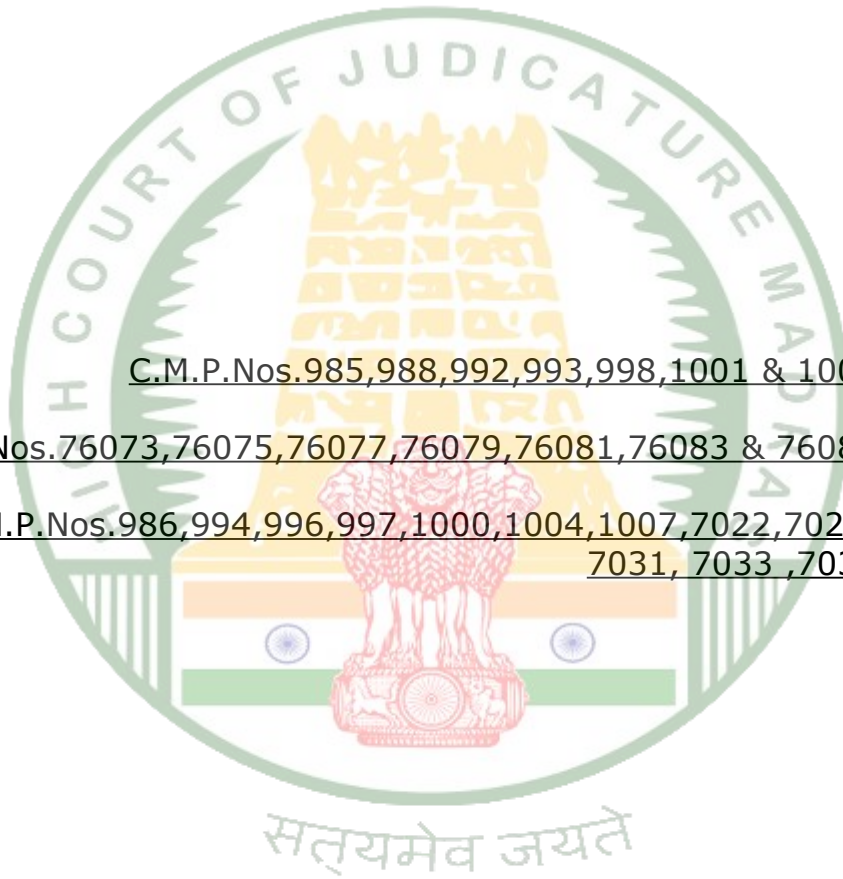
1. The Subordinate Judge,  
Udhagamandalam,
2. The District Munsiff,  
Coonoor.

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**V.BHARATHIDASAN,J.,**

raja

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