

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 08.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.24885 of 2005
and
W.M.P.No.27245 of 2005

Muthiah ...Petitioner

Vs

1.The Authorized Officer,
Assistant Commissioner
(Land Reforms),
Trichy.

2.The Revenue Divisional Officer,
Land Tribunal,
Chennai-5.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records on the file of 2nd respondent in its proceedings R.C.447/2004 dated 29.06.2005 and quash the same as illegal, incompetent, without jurisdiction and further direct the 2nd respondent to dispose off the appeal on merits.

For Petitioner : Mr.V.Raghavachari

For Respondents: Mrs.K.Bhuvaneswari, AGP
for R1

R2 - Tribunal

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O R D E R

Heard Mr.V.Raghavachari, learned counsel for the petitioner and Mrs.K.Bhuvaneswari, Additional Government Pleader for the first respondent.

2. Though the writ petition came to be admitted on 03.08.2005 and rule nisi was issued, the respondents have not chosen to file a counter till date.

3. It is the submission of the learned counsel for the petitioner that when the first respondent had invoked his suo moto powers under Section 22 of the Tamil Nadu Land Reforms Act, no notice was served on them. As such, they were not aware of the order passed on 20.11.2002. When the orders were served on the petitioner on 27.11.2002, the petitioner herein claims to have been bed-ridden for two years and subsequently, he had also misplaced the original order dated 20.11.2002 and therefore, he could not file the appeal in time. In the process, there had occurred a delay of 580 days. Therefore, the learned counsel for the petitioner submitted that the order rejecting the petitioner's application seeking for condonation of delay in filing the appeal, is not proper, since the reasonings given by him was not considered by the appellate authority.

4. It is seen that by invoking suo moto powers under Section 22 of the Act, the first respondent herein had declared an extent of 224.894 standard acres as surplus from the holdings of the land owner. The respondents have not filed their counter evidencing that a notice was issued, when the suo moto powers came to be invoked by the first respondent. As such, the reasoning given by the petitioner herein requires consideration.

5. It is needless to point out that whenever an application seeking for condonation of delay is being dealt with, the concerned authority is required to give his reasoning with regard to the reasons adduced for the delay. In the instant case, when the second respondent had rejected the petitioner's application seeking for condoning the delay of 580 days, there is absolutely no discussion with regard to the reasons adduced by the petitioner for the delay. As such, the impugned order can be considered only as a non-speaking order.

6. In the light of the above observations, the order dated 29.06.2005 on the file of the second respondent in its proceedings R.C.No.447/2004, is set aside. Consequently, the petitioner's application seeking for condonation of delay of 580 days in filing the appeal, is condoned. Consequently, the second respondent is directed to take up the Appeal filed by the petitioner under Section 78 of the Tamilnadu Land Reforms Act and dispose the same, as expeditiously as possible. Since, the original appeal papers were presented in the year 2004, the petitioner is granted liberty to raise additional grounds before the 2nd respondent.

7. Accordingly, the writ petition stands allowed. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Authorized Officer,
Assistant Commissioner
(Land Reforms)
Trichy.

2.The Revenue Divisional Officer,
Land Tribunal, Chennai-5.

+1cc to Mr.V.Raghavachari, Advocate Sr.33858
+1cc to the Government Pleader Sr.34712

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srg 18/06/2019

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