

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(NPD).No.2077 of 2014

1.District Forest Officer
Salem and Namakkal.

2.State of Tamilnadu rep.by
District Collector, Namakkal. ... Petitioners

Vs.

Raman

... Respondent

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India, to set aside the order passed by the Additional District Judge, Fast Track Court, Namakkal in I.A.No.662 of 2006 in unnumbered CMA of 2006 dated 30.12.2011.

For Petitioners : Mrs.Thangavadhana Balakrishnan
Additional Government Pleader
(Forest)

For Respondent : No appearance

ORDER

The present Civil Revision Petition is directed against the order dated 30.12.2011 passed by the Additional District Judge, Fast Track Court, Namakkal in I.A.No.662 of 2006 in unnumbered C.M.A of 2006.

2.The said I.A was filed by the petitioner to condone the delay of 1044 days in filing the unnumbered Civil Miscellaneous Appeal. The said unnumbered C.M.A was filed challenging the order dated 20.05.2002 passed by the District Settlement Officer.

3.There is no representation for the respondent even though their name is printed in the cause list.

4.It is noticed that similar Civil Revision Petitions filed in a batch of cases were allowed on 21.11.2013 in respect of very same land by an order dated 21.11.2013. There also order dated 23.06.2011 was passed by the learned Additional District Judge, Fast Track Court who had declined to condone the delay ranging from 981 to 1153 days in filing the Civil Miscellaneous Appeal.

5.Paragraph 8 of the order dated 21.11.2013 in the batch of C.RPs. read as under:-

"8.It is seen from the applications filed for condonation of delay, the petitioners mainly urged that the Settlement Officer is not right in not excluding the portion for the lands which were not occupied by any third parties and therefore, they must be given an opportunity to contest the case on merits. Even though the Civil Miscellaneous Appeals have to be filed within 30 days from the date of receipt of the copy of the order passed by the Settlement Officer, it is stated that the orders have been received only on

04.07.2002 and 29.11.2002 in batches and thereafter, the department took efforts to verify the same with the records which resulted in the delay in filing the appeals."

6.The Court also referred to an unreported order dated 05.04.2011 in C.R.P.(NPD).No.1298 of 2008, wherein it was held that an opportunity should always be given to the Government to establish the case on merits and it cannot be thrown out at the threshold. The Court after considering various decisions has held as under in paragraph 13:-

"13.when the Court below has exercised its discretion in the light of the legal principle laid down in the President, Sathyamangalam Hill Tribes, Multi Purpose Co-operative Society Ltd., Coimbatore vs. The Deputy Registrar, Co-operative Societies, Erode Circle, Erode and another (2006 (4) CTC 243), this Court is not inclined to interfere with the finding of the Court below. When admittedly, the claim of the petitioners over an extent of land has been allowed and the right of the Government is affected, an opportunity should always be given to the Government to establish its case on merits and this case cannot be thrown out at the threshold. Courts have to decide the dispute on merits by full and complete adjudication and not to decline the relief on technicalities. Therefore, this Court does not find any reason to interfere with the order passes by the court below."

7.The Court eventually allowed the C.R.Ps with the following

observations:-

"18.As rightly pointed out by the learned Government Advocate appearing for the petitioners, the settlement officer has passed individual orders in favour of the claimants/respondents herein for which separate appeals were required to be filed which took considerable time for the Department. It was also contended that apart from their routine duties, the staff of the Department were also made to verify the voluminous records for being compared with the correctness of the order passed by the Settlement Officer and in that process the delay has occurred. Such explanation offered by the petitioner is a plausible explanation and it was not a mere administrative delay adduced by the petitioners. Furthermore, when already 502 applications filed by the Department have been allowed demands and the Civil Miscellaneous Appeals are pending, interest of justice demands that the delay in filing the present Civil Miscellaneous Appeals also has to be condoned so that all the appeals can be taken up for hearing and disposal by the Court below."

8.The Court had allowed the batch of Civil Revision Petitions under similar circumstances. Following the same, the present Civil Revision Petition is also allowed. No costs.

24.04.2019

Index :Yes/No
Internet :Yes/No
jen

To

1. Additional District Judge, Fast Track Court,
Namakkal.
2. District Forest Officer
Salem and Namakkal.
3. The District Collector,
Namakkal.
4. The Section Officer,
V.R. Section, High Court, Madras.



WEB COPY

C.SARAVANAN, J.

jen



C.R.P.(NPD).No.2077 of 2014

WEB COPY 24.04.2019