

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2019

CORAM :

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

C.R.P.(NPD).No.225 of 2014

and

M.P.No.1 of 2014

- 1.P.R.Chandran
2. A.Govindarajan
3. G.Venkatachalam
4. K.V.Mani
5. Indirani
6. Kumaran
7. P.Bhuvaneswari
8. Chitra Devi

... Petitioners

Vs

1. The Commissioner,
H.R. & C.E.,
Having Office at Uthamar Gandhi Road,
Chennai-600 034.

2. The Joint Commissioner,
H.R. & C.E.,
Having Office at Kottai Mariamman Temple Compound,
Salem-636 001.

3. The Assistant Commissioner,
H.R. & C.E.,

Having Office at Kottai Mariamman Temple Compound,
Salem-636 001.

4. The Inspector,
H.R. & C.E.,
Having Office at Kottai Mariamman Temple Compound,
Salem-636 001. ... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of C.P.C.,
against the fair and final order dated 22.08.2013 made in I.A.No.47 of
2012 in Un-numbered A.S.No. Of 2012 on the file of the Principal
Sub-Court, Salem.

For Petitioners : Mrs.Zeenath Begum
For Respondents : Mr.M.Venkadesh Kumar
Govt. Advocate (HR & CE)

ORDER

The present revision petition is directed against the fair and
final order dated 22.08.2013 made in I.A.No.47 of 2012 in Un-
numbered A.S.No. Of 2012 on the file of the Principal Sub-Court,
Salem.

WEB COPY

2. The suit was decreed in favour of the petitioners. Aggrieved
by the same, the respondents preferred an appeal with a delay of 883
days. The reasons stated in the affidavit to condone the delay of 883

days is as follows:

"In this office the Assistant in charge of suits is lying vacant for the past 5 years and the office of the Inspector, suits is also lying vacant for the past 2 years and there are only 3 Junior Assistants in this office and with whom only 8 sections of the office is to be maintained. In these circumstances, due to want of sufficient staff, the appeal papers were not able to be finalised and forwarded to the office of the Government Pleader for filing an appeal and the appeal papers were finalised and forwarded to the Government Pleader's office only now. There is delay of 883 days in filing the appeal. The delay was for the reasons stated above and it was neither wilful nor wanton."

3. The lower Court allowed the application on payment of cost of Rs.8,830/- which was deposited in the Court on 13.09.2013, as, the petitioner herein have refused to accept the cost awarded by the lower court. Aggrieved by the said order, condoning the delay of 883 days in filing the appeal, the present revision petition has been filed.

4. The learned counsel for the petitioners submitted that the reasons for condoning the delay that the HR & CE, a Government Department has several litigation to handle and that during the material time was under staffed cannot be a sufficient reason for

condoning the delay. It was further submitted that the lower Court erred in allowing the application on payment of a cost of Rs.8,830/- i.e., Rs.10/- per each days delay. Since the issue pertains to the rights over the land, the respondents deserves a chance to agitate the issue before the Appellate Court. Therefore, I find no reason to interfere with the order.

5. Consequently, I am inclined to dismiss the present revision petition. However, the respondents herein are directed to deposit another sum of Rs.2,500/-. It is made clear that the aforesaid amount should be deposited within a period of six weeks from the date of receipt of a copy of this order.

6. Petitioners herein are entitled to withdraw the amount already deposited and to be deposited by the respondents.

7. On such deposit and production of proof of payment by the respondents, the Sub-court, Salem shall number the appeal and dispose of the appeal within a period of nine months from the date of receipt of a copy of this order.

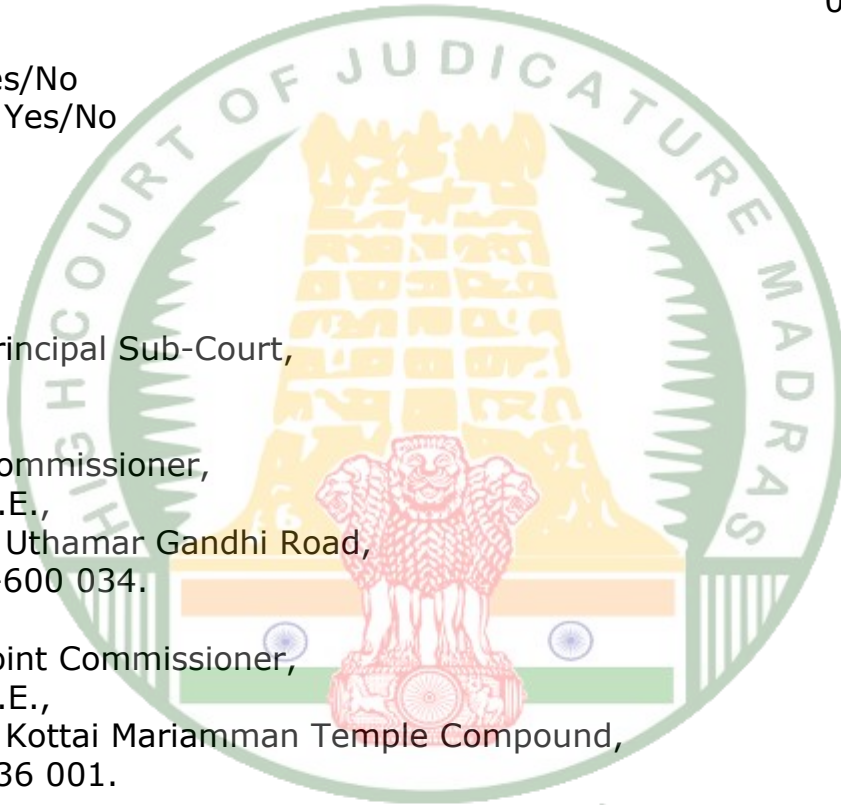
8. With the above observation and direction, this revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.03.2019

Index:Yes/No
Internet:Yes/No
ssn

To

1. The Principal Sub-Court,
Salem.
2. The Commissioner,
H.R. & C.E.,
Office at Uthamar Gandhi Road,
Chennai-600 034.
3. The Joint Commissioner,
H.R. & C.E.,
Office at Kottai Mariamman Temple Compound,
Salem-636 001.
4. The Assistant Commissioner,
H.R. & C.E.,
Office at Kottai Mariamman Temple Compound,
Salem-636 001.
5. The Inspector,
H.R. & C.E.,
Office at Kottai Mariamman Temple Compound,
Salem-636 001.



WEB COPY

C.SARAVANAN, J.,

ssn



**C.R.P.(NPD).No.225 of 2014
and
M.P.No.1 of 2014**

WEB COPY

06.03.2019