IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.11.2019

PRONOUNCED ON : 26.11.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

C.M.P.No.14226 of 2017
in
A.S.Sr.No.44402 of 2017

The Special Tahsildar,
Land Acquisition,
Krishna Water Supply Project,
Tiruvallur. ... Petitioner

Vs.

1.Rajagopal
2.Chinnasamy
3.Kesavan
4.Loganathan ... Respondents

Prayer :- The Civil Miscellaneous Petition has been filed under Order 41 Rule 3A of CPC to condone the delay of 1886 days in filing this first appeal against the judgment and decree dated 16.02.2017 passed in L.A.O.P.No.393 of 1993 on the file of the Additional District Court (Fast Track Court – II), Poonamallee.

WEB COPY

For Petitioner : Mr.J.Balagopal
Special Govt.Pleader (A.S.)

For Respondents : Mr.R.Bharath Kumar

ORDER

The Civil Miscellaneous Petition has been laid to condone the delay of 1886 days in filing the first appeal.

http://www.judis.nic.in

2.The lands belonging to the respondents had been acquired and after complying with the procedures contemplated under the Act, it is found that Award had been passed on 15.11.1989 fixing the value of the acquired lands at Rs.100/- per cent. The reference had been made to the competent Court and the same was taken on file in LAOP No.393 of 1993 and the referral Court, considering the materials placed on record, by its judgment dated 16.02.2012 enhanced the value of the acquired lands at Rs.4,500/- per cent and determined the award payable to the claimants. Aggrieved over the same, the present first appeal has been laid. However, inasmuch as the delay of 1886 days had occurred in filing the first appeal, to condone the said delay, the present petition has been preferred.

3.According to the petitioner, the impugned judgment was passed on 16.02.2012 and the copy application was made on 29.02.2012 and the copies of the judgment and decree was delivered on 13.08.2012 and it is further put forth that the Local Additional Government Pleader had obtained the amended certified copies only on 26.02.2016 and it is also put forth that due to exigencies of official duty and the requirements on the part of the petitioner to attend the other works related to the land acquisition matters, he was unable to meet the Government Pleader (A.S), High Court, Madras in preferring the appeal and thereby, the delay

WEB COPY

http://www.judis.nic.in

had occurred in preferring the same and hence, the delay should be condoned.

4.The abovesaid cause projected by the petitioner for the delay has been seriously challenged by the respondents and contended that despite the award fixed by the referral Court, no amount had been paid to them till date and they are finding it difficult to meet their daily needs and they have also preferred the execution petition in E.P.No.72 of 2013 to execute the award and only thereafter, the petitioner had come forward with the appeal with delay and further, put forth the case that no reason has been projected in the petition as to for what purpose the amendment had been sought for in the certified copies of the documents and absolutely, no valid reason has been given for the huge and inordinate delay and the cause projected by the petitioner that due to exigencies of official duty and the requirements of the petitioner in attending the other works, had resulted and caused the delay in preferring the appeal is false and the same cannot be accepted and even after the receipt of the amendment certified copies on 26.02.2016, the appeal had been very belatedly preferred that too after the execution petition has been levied by the respondents and accordingly, contended that no valid cause has been projected by the petitioner for the delay and the petition is liable to be dismissed as devoid of merits.

WEB COPY

http://www.judis.nic.in

5.In the light of the abvoesaid rival pleas, when the petitioner has come forward with the petition to condone the delay of 1886 days in preferring the first appeal and when the cause alleged by the petitioner has been seriously challenged by the respondents, it is for the petitioner to establish the abovesaid cause with acceptable and reliable materials at least prima facie.

6.It is not the case of the petitioner that it is not aware of the passing of the impugned judgement and decree by the referral Court. Now, according to the petitioner, the amended certified copies had been prepared only on 26.02.2016. However, it is found that originally, the petitioner has received the certified copies of the judgment and decree even on 13.08.2012. As rightly put forth by the respondents, the petitioner has not explained as to for what reasons the amendment had been sought for with reference to the copies of the judgment and decree of the referral Court. Be that as it may, even as per the case of the petitioner, when the amended certified copies had been received on 26.02.2016, it is seen that even thereafter, the petitioner had not taken appropriate steps to prefer the appeal immediately thereafter. On the other hand, the appeal had been preferred only in the month of July, 2017. With reference to the huge and inordinate delay, the only reason given by the petitioner is the administrative delay and the pre occupation

WEB COPY

http://www.judis.nic.in

of the petitioner in attending the other works. However, when the abvoesaid reason projected by the petitioner has been stoutly refuted by the respondents and when it is found that the respondents had not been paid any compensation till date and they had been forced to file the execution petition for realising the award amount and only thereafter, when it is found that the petitioner had chosen to prefer the appeal that too with huge and inordinate delay and when the petitioner has come forward with the vague reason of administrative delay and pre occupation of the other works not even supported with any prima facie materials pointing to the same and in such view of the matter, when the apex Court has held that no premium can be given for total lethargy or utter negligence of State officers/machinery by condoning the delay caused by the officers of the state as a matter of course and in such view of the matter, the reasons projected by the petitioner for the condonation of the huge and inordinate delay cannot at all be considered as sufficient cause in any manner and in such view of the matter, it has to be held that the petitioner has failed to project any valid reason for the condonation of the huge and inordinate delay and accordingly, unable to substantiate the same with prima facie materials and proof.

WEB COPY

7.In this connection, the counsel for the respondents placed reliance upon the decision reported in ***(2012) 5 Supreme Court Cases 157 (Maniben Devraj Shah Vs. Municipal Corporation of Brihan***

http://www.judis.nic.in

Mumbai). The principles of law outlined in the abovesaid decision are taken into consideration and followed as applicable to the case at hand.

In the light of the above, I do not find any valid reason for entertaining the petition. Resultantly, the petition is dismissed with costs. Consequently, A.S.Sr.No.44402 of 2017 is rejected.

Index : Yes / No
Internet : Yes / No 26.11.2019
sms

To

The Section Officer, V.R.Section, High Court, Madras.

WEB COPY

http://www.judis.nic.in

T.RAVINDRAN, J.

sms

Pre-Delivery Order made in C.M.P.No.14226 of 2017 in A.S.Sr.No.44402 of 2017

WEB COPY

26.11.2019

http://www.judis.nic.in