

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE P.T. ASHA

C.M.P. No.18469 of 2017
in
CRP SR No.73843 of 2017

The Executive Engineer
& Administrative Officer,
Besant Nagar Division,
Tamil Nadu Housing Board,
Adyar, Chennai - 600 020.

.... Petitioner

Vs.

1. G. Chandrasekar
Rep. by its his Power of Attorney
Uma Ramasamy

2. The Special Tahsildar,
Land Acquisition,
(Unit III I/c.)
T.N.H.B., Chennai.

....Respondents

Prayer in C.M.P. No.18469 of 2017: Civil Miscellaneous
Petition filed under Section 5 of the Limitation Act to condone
the delay of 116 days filing the above Civil Revision Petition
against the order dated 02.01.2017 made in I.A. No.10256 of
2016 in E.P. No.4 of 2004 in L.A.O.P. No.70 of 1985 on the file
of VI Assistant City Civil Court, Chennai.

Prayer in C.R.P. SR No.73843 of 2017: Civil Revision
Petition filed under Section 115 of Civil Procedure Code against
the order dated 02.01.2017 made in I.A. No.10256 of 2016 in E.P.
No.4 of 2004 in L.A.O.P. No.70 of 1985 on the file of VI
Assistant City Civil Court, Chennai.

For Petitioner : Ms. Narmada Sampath,
Additional Advocate General

For Respondents: Mr. Mohan
for Mr.M.Murali for R1
For R2 - No appearance

ORDER

The above Civil Miscellaneous Petition is filed to condone the delay of 116 days in filing the Civil Revision Petition, which is filed challenging the order dated 02.01.2017 in I.A. No.10256 of 2016 in E.P. No.4 of 2004 in L.A.O.P. No.70 of 1985.

2. The present case highlights the absolute disconnect between the various departments of the Government, which has ultimately led to the owner of the land, which have been taken possession of, as early as in the year 1982 to still await compensation.

3. The brief narration of facts and the chronicle of dates and events are stated herein below to appreciate the discussion herein :

A land comprising an extent of 1.89 acres situated in S. No.189/2 of Tiruvanmiyur village, Chennai District was acquired by the Sub Tahsildhar, Land Acquisition/ second respondent herein as early as in the year 1982 and a sum of rupees one percent was fixed as the value of the land, on 14.12.1982. Thereafter, the matter was referred to the Subordinate Court, Poonamallee under Section 18 of the Land Acquisition Act, 1894, which was numbered as L.A.O.P. No.70 of 1985 and the award was enhanced to a sum of Rs.3,000/- per cent, vide Judgment of the Subordinate Court, Poonamallee. The second respondent has filed an appeal in A.S. No.648 of 1990, challenging the award in L.A.O.P. No.70 of 1985. On 22.12.1997, the first appeal was dismissed by this Court and the order of the Subordinate Court, Poonamallee in L.A.O.P. No.70 of 1985 was confirmed.

Thereafter, a portion of the amount was deposited by the first respondent. In the year 2004 E.P. No.4 of 2004 is filed for the balance amount before the Executing Court. On 10.04.2004, the memo of calculation was filed by the land owners in E.P. No.4 of 2004. The respondents had filed the various memoranda of calculation, ultimately by an order dated 30.04.2015, the memorandum of calculation filed by the land owners was accepted. On 18.08.2015, since the amounts were not deposited the order of attachment was passed.

The order dated 30.04.2015 was the subject matter of challenge in CRP NPD No.4167 of 2015. The order dated 18.08.2015 was the subject matter of challenge in CRP NPD No.666 of 2015. On 07.12.2015, CRP NPD No.4167 of 2015 was dismissed as infructuous, since the Executing Court has issued an order of attachment on 18.08.2015 and on 22.03.2016, CRP NPD No. 666 of

2015 was disposed of. The second respondent herein was directed to pay a sum of Rs.52,54,184/- as arrived by the Executing Court, within a period of eight weeks. This order was challenged before the Hon'ble Supreme Court with a delay and was dismissed.

The petitioner herein filed an application to implead themselves as the proposed second Judgment debtor in E.P. No.4 of 2004. On 02.02.2017 the petition was dismissed as against which the present revision is filed on 15.09.2017.

The land owners have issued a contempt notice dated 17.09.2016. On 05.10.2016, the learned counsel for the second respondent herein issued a reply stating that the petitioner herein has paid the E.P. amount and they have filed the petition to implead themselves in E.P. No.4 of 2004, which is pending and in the reply notice it is stated that the petitioner sought to implead themselves to pay the land owners.

From the above, it is clear that the revision petitioner is aware about the proceedings right from the month of July 2016 and their impleading petition had been dismissed on 2.01.2017. The copy application would indicate that the certified copy has been received by them on 23.02.2017. Though they have filed the revision with a delay in the year 2017, no steps whatsoever have been taken to bring this petition for orders at the earliest point of time. The petitioner has been deliberately not brought up before this Court for reasons best known to them.

It is only when the statutory notice has been issued to the revision petitioner that the petitioner has come forward to move this very application.

The very conduct of the revision petitioner does not inspire confidence upon this Court, more so, when in the counter to the contempt petition they have stated as follows :-

I submit that the order in the Impleading Petition in I.A. No.10256 of 2016 was dismissed on 02.01.2017. The copy of order was received by the Board on 24.02.2017. On receipt of the order, the Executive Engineer and Administrative Officer, Besant Nagar Division, Tamil Nadu Housing Board, has filed Revision Petition (SR. No.73844 of 2017) on 15.09.2017 against the order dated 02.01.2017 passed in the I.A. No.10256 of 2016 in E.P. No.4 of 2004 in L.A. O.P. No.70 of 1985 and the same was dismissed in the admission stage before this Hon'ble Court.

Hence, there appears to be total disconnect between the parties.

4. Ms.Narmada Sampath, learned Additional Advocate General, appearing on behalf of the revision petitioner contended that the only challenge is made with regard to the interest and solatium that has been ordered, which is contrary to the dictum laid down by the Hon'ble Supreme Court.

5. In my considered opinion, it is too late in the day for the revision petitioner to make such an allegation, all along they have contested the application through the second respondent and it is only when the contempt petition has been filed, they seems to disassociate from the second respondent herein.

6. The respondents have entered appearance and though they have not filed their counter they have argued and opposed this petition.

7. I do not find any merits in the petition filed to condone the delay particularly, when much water has flown and the Hon'ble Supreme Court has dismissed the SLP filed by the second respondent on behalf of the second petitioner challenging the order passed in C.R.P. NPD No.666 of 2017 and thereby, the order passed in E.P. No.4 of 2004 has attained finality. That apart no cause much less a sufficient cause has been shown by the petitioner.

8. In the result, the Civil Miscellaneous Petition stands dismissed. No costs. Consequently, the CRP SR No.73843 of 2017 is rejected.

vsi2

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The VI Assistant Judge,
City Civil Court,
Chennai.

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CMP No.18469 of 2017
in
CRP SR No.73843 of 2017

Kak(01/07/2019)