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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.06.2019

CORAM :
THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.P. (MD) .No.12536 of 2018
in
Rev.Aplc. (MD) .No.SR52285 of 2018
and
Rev.Aplc. (MD) .No.SR52285 of 2018
(Through Video Conference)

1. The District Revenue Officer,
Sivagangai District.
 2. The Revenue Divisional Officer,
Sivagangai. ... Petitioners/Appellants in
both petitions
- Vs.
- M.Jawahar ... Respondent/Respondent in
both petitions

Prayer in C.M.P. (MD) .No.12536 of 2018: The Civil Miscellaneous Petition is filed under Section 5 of the Limitation Act to condone the delay of 260 days in filing the Review Petition.

Prayer in Rev.Aplc. (MD) .No.SR52285 of 2018: The Review Application is filed under Order 47 Rules 1 and 2, Section 114 r/w. 151 of C.P.C., to review the order passed in C.M.P.(MD). No.9475 of 2017 in W.A.(MD)SR.No.40345 of 2017, dated 27.02.2018 passed by this Court.

Prayer in CMP(MD)No.9475 of 2017: To Condone the delay of 824 days in filing the above appeal in WA(MD)SR.No.40345 of 2017 filed as against the order dated 18.12.2014 in WP(MD)No.1002 of 2011 on the file of this Honourable Court.

Prayer in WP(MD)No.1002 of 2011: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order of the 1st respondent in N.K.C2.10235-2010 dated 20/08/2010 and quash the same.



For Petitioners : Mr.K.Chellapandian,
Additional Advocate General
Assisted by Mr.A.K.Baskarapandian
Special Government Pleader
For Respondent : Mr.S.Srinivasa Raghavan

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O R D E R

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

The present Civil Miscellaneous Petition is filed by the Official respondents in the writ petition for condonation of 260 days in filing the Review Petition.

2. It is to be pointed out at this juncture that the W.A.(MD). No.SR40345 of 2017 has been preferred against the order dated 18.12.2014 made in W.P.(MD).No.1002 of 2011, which came to be dismissed on the ground that the delay of 824 days in filing the said writ appeal has not been properly explained.

3. Mr.K.Chellapandian, learned Additional Advocate General assisted by Mr.A.K.Baskara Pandian, learned Special Government Pleader forcibly and vehemently contended that the respondent, who was a Village Administrative Officer, abusing and misusing his official position had purchased the property which was assigned knowing pretty well that the conditions of the assignees have been violated and further pointed out that the assignees themselves are not entitled for assignment for the reason that they have not come within the norms prescribed for granting of assignment.

4. So far as the delay in filing the Review Application is concerned, it is the submission of the learned Additional Advocate General that the delay had occurred on account of bifurcation of the Taluk, Election work as well as misplacing of files and other administrative reasons and taking into consideration of the fact that the lands in question are worth about more than Rs.10 crores as per the present market value, this Court may condone the delay so that the writ appeal can be argued and disposed of on merits.

5. Per contra, the learned counsel for the respondent / writ petitioner has invited the attention of this Court to the counter affidavit and would submit that the order of the Revenue Divisional Officer cancelling the assignment came to be passed on 08.02.2010 and the appeal preferred by the private respondents before the jurisdictional District Revenue Officer came to be dismissed on 20.08.2010 and the W.P.(MD).No.1002 of 2011 challenging the said order came to be allowed on 18.12.2014 and the writ appeal itself was filed with the delay of nearly three years came to be dismissed by this Court vide impugned order dated 27.02.2018. It is also pointed out by the learned counsel for the respondent that only after filing of the Cont.P.(MD).No.1640 of



2018 for grant of Patta, the present Review Application has been filed and all along the petitioners / Official respondents had adopted the lethargic attitude and in the absence of any proper explanation, the delay in filing the Review Application cannot be condoned and prays for dismissal of the same with exemplary cost.

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6. This Court paid its anxious consideration and best attention to the rival submissions made on either side and also perused the materials placed on record.

7. The primordial submission made by the learned Additional Advocate General is that originally the assignees ought not to have been assigned with the land for the reason that they have not fulfilled the basic criteria for assignment. It is to be noted at this juncture that the assignment was granted as early as on 19.12.1992 which came to be cancelled by the order of the Revenue Divisional Officer, Sivagangai dated 08.02.2010 and the challenge made by the private respondents before the jurisdictional District Revenue Officer also dismissed on 20.08.2010 and the writ petition challenging the said order came to be allowed on 18.12.2014. The Official respondents aggrieved by the said order preferred the writ appeal with the delay of 824 days, by filing a petition under Section 5 of the Limitation Act in C.M.P.(MD).No.9475 of 2017 in W.A.(MD).SR.40345 of 2017 and the said petition was also dismissed on 27.02.2018, the present Review Application came to be filed on 14.12.2018. It is to be noted that on all stages, there was a considerable delay in prosecuting the proceedings. It is also brought to the knowledge of this Court by the learned Additional Advocate General that the Official respondents, who are responsible for the said delay, are also facing disciplinary proceedings and taking into consideration the value of the lands and the interest of the Government, this Court may condone the delay in filing the Review Application.

8. This Court while dismissing the writ appeal on the ground of delay, has placed reliance upon the decision rendered by the Hon'ble Supreme Court of India reported in **2013 (11) SCALE 418 (Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy and others)**, wherein the principles have been enunciated.

9. Despite the fact that the writ appeal came to be dismissed on the ground of delay, it appears that till the petitioners did not wake up and once again filed the present application to review the said order with a delay of 260 days.

10. In the considered opinion of the Court, in the absence of any proper, tenable and plausible or acceptable reason, such a delay cannot be condoned and that apart, only after filing of the Contempt Petition by the respondent, the present petition came to be filed.



11. In the considered opinion of the Court, the present petition is devoid of merits. Therefore, it is liable to be dismissed and accordingly dismissed. Consequently, the Review Application (MD).No.SR52285 of 2018 is rejected. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

Akv

To

1. The District Revenue Officer,
Sivagangai District.
2. The Revenue Divisional Officer,
Sivagangai.

+ 2 CC to The Special Government Pleader SR.No.68786 & 69274

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