

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.A.No.4114 of 2019
and C.M.P.No.25696 of 2019

Aaron Samuel Hospital Society,
Rep. by its Authorized Signatory,
Perungalathur, Chennai 600 063. Appellant/Petitioner

-vs-

Forest Range Officer,
Tambaram Taluk, Tambaram. Respondent

Appeal filed under Clause 15 of the Letters Patent against the order dated 19.09.2019 passed in W.M.P.No.27041 of 2019 in W.P.No.6791 of 2008 on the file of this Court.

Prayer in W.M.P.No.27041 of 2019:

This Writ Petition praying that in the circumstances stated therein and in the affidavit filed therewith on the file of the High Court will be pleased to condone the delay of 186 days in representation in WMP SR Nos.12986 and 12996 of 2019 in W.P.No. 6791 of 2008.

Prayer in W.P.No.6791 of 2008:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondent to forthwith issue No Objection Certificate in favour of the petitioner for mutation of revenue records and for carrying out developmental activities in the lands comprised in Survey No. 298 Perungalathur Village admeasuring 20 acres of lands.

For Appellant : Mr.Prabhakaran, Sr. Counsel
for Mr.M.Elumalai

For Respondent : Mr.S.Prabhu
Addl.G.P. (F)

JUDGMENT

(Delivered by Subramonium Prasad, J.)

The instant appeal is against an order dismissing an application for restoration on the ground that the same was barred by delay of 186 days.

2.The short facts are that Writ Petition No.6791 of 2008 was filed for issuance of No Objection Certificate for mutation of revenue records and for carrying out developmental activities. The writ petition was allowed. A Review Petition was filed by the Government against the said order and the review petition stood allowed and the writ petition was restored. The writ petition was, thereafter, dismissed for non-appearance vide order dated 17.12.2018. An application for restoration was filed with a delay of 12 days in filing and 186 days in representation. The learned Single Judge dismissed the application for restoration on the ground that there is no reason given for condoning the delay of 186 days.

3.Learned Additional Government Pleader appearing for the respondent states that apart from the fact that there is a huge delay in representation, there is also a delay in filing the restoration application and the conduct of the appellant / petitioner, therefore, shows that he is not interested in pursuing the matter.

4.We have heard learned Senior Counsel for the appellant / writ petitioner and the learned Additional Government Pleader for the respondent and perused the records.

5.We find that interest of justice would be served if the writ petition is heard on merits, rather being dismissed on the ground of non-appearance of the appellant, for which he has given sufficient explanation.

The Writ Appeal is, accordingly, allowed and the writ petition is restored to file, to be heard and disposed of on

merits. The learned Single Judge is, therefore, requested the hear the matter on merits and dispose of the same in accordance with law. No costs. Consequently, C.M.P.No.25696 of 2019 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

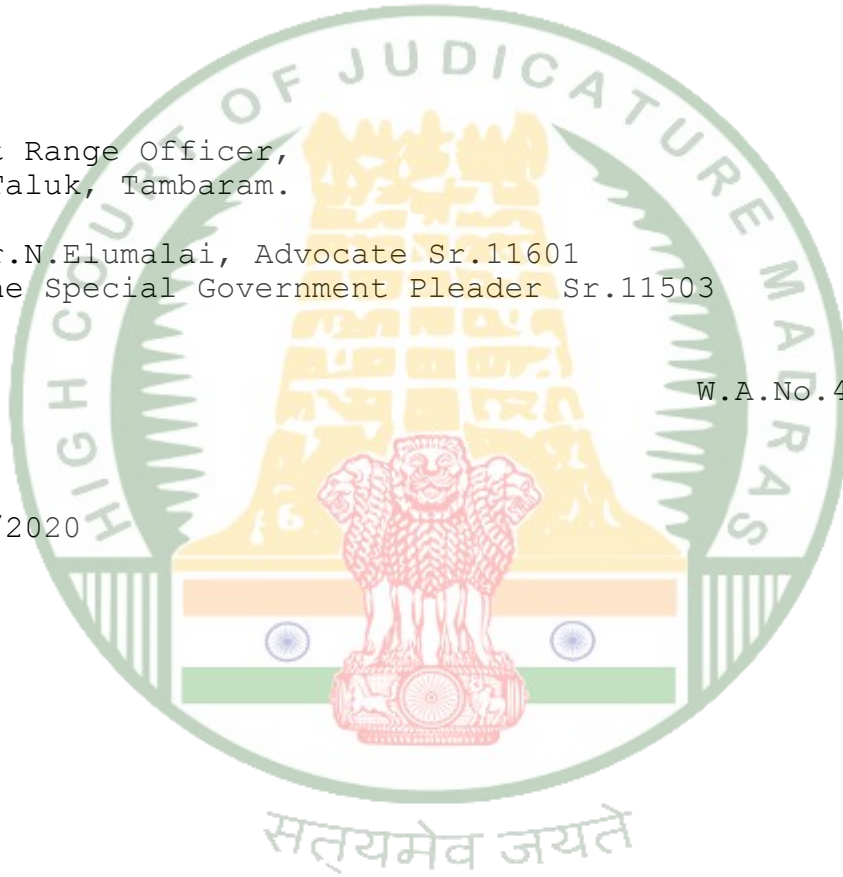
To

The Forest Range Officer,
Tambaram Taluk, Tambaram.

+1cc to Mr.N.Elumalai, Advocate Sr.11601
+1cc to the Special Government Pleader Sr.11503

W.A.No.4114 of 2019

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