

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE S.M.SUBRAMANIAM

CMP.No.24009 of 2019
in AS.Sr.No.17472 of 2015

1. Union of India rep. by
The Secretary to Govt. (Rev.),
Puducherry.
 2. The Revenue Officer-cum-Land Acquisition Officer,
Central University Land Acquisition Wing,
Directorate of School Education,
Puducherry.
- .. Petitioners/Appellants

Vs.

R. Kuppusamy Counder [Died]
rep. by his legal heirs 1 to 6

1. G. Sandamurthy
2. Poorani
3. Dhanalakshmi
4. Magadevi
5. G. Thulasingam
6. Kasthuri

.. Respondents

Petition filed under Section 5 of Limitation Act, to condone the delay of 274 days in filing the above appeal against the order dated 24.02.2014 in LAOP.NO.29 /2006 on the file of the II Additional District Judge at Puducherry.

For Petitioners : Ms.G.D.Jearany

ORDER

This Miscellaneous Petition is filed to condone the delay of 274 days in filing the appeal suit against the order dated 24.02.2014 passed in LAOP.No.29 of 2006.

2. The learned Government Advocate (Pondicherry) appearing on behalf of the petitioner made a submission that the appeal suit is filed questioning the enhancement of interest on the excessive land value. The learned Government Advocate for the petitioner reiterated that enhancing the interest of rate is improper and therefore, the petitioner has chosen to prefer an appeal suit against the order passed in LAOP.

3. With reference to long delay of 274 days, the petitioner states that there was a delay in giving opinion by the Law Department and on account of such delay, the appeal was filed belatedly. This apart, during shifting of the office, the bundle was misplaced and that is also the reason for delay.

4. This Court is of the considered opinion that the public officials are expected to perform their duties diligently. If Law Department or the Law Officers have unnecessarily delayed in giving the opinion for the purpose of preferring an appeal, then this Court is of the considered view that appropriate actions are to be initiated against such Law Officers or the Officials, who all are responsible for such delay in giving opinions. The Law Department is aware of the law of limitation and therefore all such opinions which all are required for the purpose of filing an appeal suit is to be given within the period of limitation. The public officials are not expected to keep the files pending for an unspecified period and therefore, filing an appeal with the condone delay petition by simply stating that there was a delay in furnishing the opinion for the purpose of filing an appeal suit. Such an evasive reason cannot be accepted to condone the huge delay of 274 days. Contrarily, the responsible officials are to be prosecuted for their lapses, negligence and dereliction of duty.

5. Therefore, this court cannot condone the delay in a routine manner, which is impermissible. The Law of Limitation is substantive. Therefore, the condonation of delay is to be considered

as an exception. Law of Limitation is the rule to be followed in all circumstances and power of discretion to condone the delay is to be exercised discreetly, when the reasons furnished are candid and convincing. Thus, the uncondonable delay only in the presence of valid reasons, the Court can exercise the discretionary power for the purpose of condonation of huge delay.

6. This being the principles to be followed, this Court is of the considered opinion that the reasons furnished for condoning the delay of 274 days is neither candid nor convincing and mere delay in furnishing the legal opinion cannot be a ground to condone the delay.

7. This being the factum, this Court is not inclined to consider the petition and therefore, CMP.No.24009 of 2019 in AS.Sr.No.17472 of 2015 is dismissed and consequently the appeal suit is rejected at the S.R. Stage. No costs.

08.01.2020

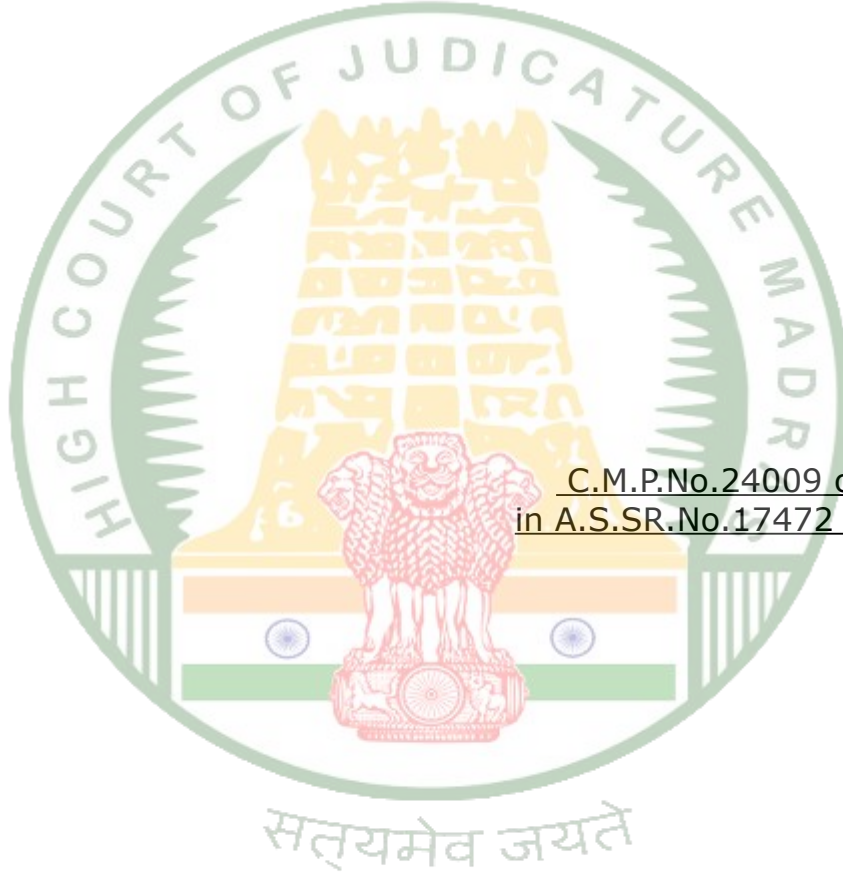
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Index: Yes/No
Speaking order/Non-speaking order

S.M.SUBRAMANIAM, J.

ssb



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