



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Twenty First day of December Two Thousand and Twenty

PRESENT

The Hon`ble Mr.Justice N.SESHASAYEE

CMP(MD) No.1773 of 2020
in
SA(MD) SR.NO.51122 of 2019

- 1 THE STATE GOVERNMENT OF TAMIL NADU,
THROUGH DISTRICT COLLECTOR,
SIVAGANGAI DISTRICT, SIVAGANGAI.
- 2 THE REVENUE DIVISIONAL OFFICER,
REVENUE DIVISIONAL OFFICE,
MAJITH STREET, SIVAGANGAI.
- 3 THE TAHSILDAR,
TAHSILDAR OFFICE (SIPCOT COMPLEX)
MANAMADURAI. ... PETITIONERS/ APPELLANTS

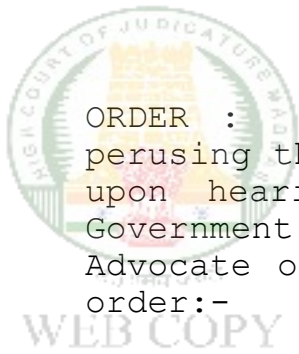
Vs

SIVAGANGAI DEVASTHANAM @ SAMASTHANAM,
REPRESENTED THROUGH MANAGER,
CHATIRAM STREET,
SIVAGANGAI TOWN. ... RESPONDENT/ RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 1801 days in preferring the present Second Appeal before this Hon'ble High Court against the judgment and decree 17.10.2014 made in A.S. No. 40 of 2012 on the file of the Learned Sub- Court, Sivagangai, reversing the judgment and Decree dated 16.12.2011 made in O.S. NO.220 of 2009 on the file of the learned District Munsif Court at Manamadurai and thus render justice.

PRAYER IN SA(MD) SR.NO.51122 of 2019:

To allow the Second Appeal by setting aside the judgment and decree dated 17.10.2014 made in A.S.No.40 of 2012 on the file of the learned Sub-Court, Sivagangai, reversing the judgment and decree dated 16.12.2011 made in O.S.No.220 of 2009 on the file of the learned District Munsif Court, Manamadurai.



ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.J.GUNASEELAMUTHIAH, Additional Government Pleader for the petitioners and of Mr.S.MADHAVAN, Advocate on behalf of the Respondent, the court made the following order:-

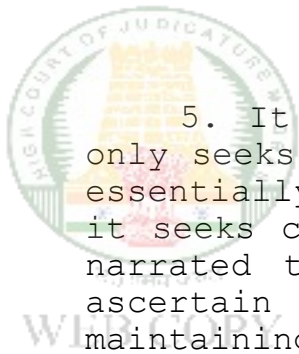
Reserved on :08.09.2020
Pronounced on: 21.12.2020

This petition is preferred by the State of Tamil Nadu for condoning a delay of 1,801 days (about 5 years) in filing the Second Appeal. The Second Appeal itself is preferred against a decree passed in A.S.No.40 of 2012.

2. The plaintiff is Sivagangai Devasthanam, and the suit is laid for declaration of plaintiff's title and for consequential injunction to protect physical possession of the plaintiff over the suit-property. The property measures 4.5 acres in Old Sy.No.31/2 which later came to be correlated to Re-survey No.31/7 and 31/9. According to the plaintiff, this property belongs to the plaintiff, that it has leased the same to about 87 persons as vacant house site, and that it has been receiving rent from them. Since the defendant (State of Tamil Nadu) and its Authorities attempted to interfere with the property, the suit came to be filed.

3. In the written statement, it is alleged that under the UDR scheme, Old Sy.No.31/2 has been correlated to Resurvey No.254/2 and subsequently, Vide proceedings of the Tahsildhar, Manamadurai dated 21.09.1987, Sy.No.31/2 was sub-divided into Sy.No.31/2, 31/7, 31/8 and 31/9. In this, for Sy.No.31/2, patta was issued to a certain Mayandi Thevar. Sy.No.31/7 was shown as Poromboke land belonging to Sivangangai Swami Temple. Sy.No.31/8 was classified as Devasthanam land and Sy.No.31/9 was classified as Assessed dry land.

4. When the dispute went to trial, after considering the facts, the trial Court dismissed the suit. In the first appeal preferred by the plaintiff, the first Appellate Court has found that the defendants have not even produced the proceedings of the Tahsildhar dated 21.09.1987, by which, the plaintiff's property in Sy.No.31/2 has been sub-divided. It has also taken into account that there was no material to indicate that Sy.No.31/2 stood in the name of Mayandi Thevar. It has also taken into account that under Ext.A.21, the property Register maintained by HR&CE Department, Sy.No.31/2 is classified as Kusavan Koil Thoppu, Thepakulam Thoppu and Nandavanam Thoppu. The total extent of the three property equals 4.50 acres, which equals the entire extent of the suit property. Therefore, it held that the classification of the land as poromboke or issuing patta in the name of Mayandi Thevar is illegal, and it was done without notice of the plaintiff, and accordingly decreed the suit. This decree is now in appeal.



5. It has to be stated at the outset that when the appellant only seeks condonation of delay in filing the appeal, this Court is essentially required to probe into the merit of the grounds on which it seeks condonation of delay. However, in this case the Court has narrated the facts that led up to the filing of this appeal to ascertain how the State has been focusing and gearing itself in maintaining the appeal, and also the quality of the appeal that might be before this court, if delay is condoned.

6.1 Turning to delay *per se*, the reason averred in the affidavit filed in support of the petition is the administrative delay. It is inexplicable that the Government, with no special status under the Limitation Act, should invariably prefer an appeal or a revision, as the case may be, beyond time. It amazes this Court as to why the Executive, with all the authority under the law, has not upgraded its level of functioning by infusing it with requisite level of professionalism. Is it because, they zealously guard an archaic system, or is it plain inertia, or is there any ingrained resistance in the bureaucratic psyche towards change?

6.2 In most districts, there will be a clerical level staff known by the name 'suit-clerk', who will be in charge of all the litigations involving the Government property in the district. And, this suit-clerk need not know law. And, in all certainty there will not be a data base/statistical data of litigations in any of the District. If the Executive does not want to go professional, they necessarily deserve no great sympathy. They have now made it a habit to hide its lack professionalism in the phrase of its coinage, 'the administrative delay' for seeking condonation of delay. This Court finds the reason least acceptable.

In the result, this Civil Miscellaneous petition is dismissed.
No costs.

sd/-
21/12/2020

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
1 THE SUBORDINATE JUDGE, SIVAGANGAI,
2 THE DISTRICT MUNSIF, MANAMADURAI.

ORDER IN
CMP(MD) No.1773 of 2020 in
SA(MD) SR.NO.51122 of 2019
Date :21/12/2020

MS/PN/SAR-1/27.01.2021/3P.3C

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