



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.P. (MD)No.3288 of 2020

in

S.A. (MD)SR.No.9026 of 2020

1.The District Collector
Kanyakumari District
Nagercoil.

2.The Tahsildar
Kalkulam Taluk
Thuckalay Post
Kanyakumari District.

3.The Village Administrative Officer
Thuckalay Village
Thuckalay Taluk
Kanyakumari District.

... Petitioners/Appellants

Vs.

1Tr.Sivarajan (died)
2.Tmt.Ambika
3.Tr.Kathir
4.Tr.Varun

(Cause Title accepted vide Court order
dated 01.06.2020 made in C.M.P. (MD)No.3043
of 2020)

(R2 to R4 were impeladed as per order in
E.A.No.91 of 2017 dated 23.02.2019)

... Respondents

Prayer in C.M.P. (MD)No.3288 of 2020 : Petition filed under Order 41 Rule 3A r/w under Order 42 Rule 1 of C.P.C. praying to condone the delay of 4013 days in filing the second appeal.

Prayer in S.A. (MD)No.SR 9026 of 2020: Appeal filed under Section 100 of Civil Procedure Code against the decree and judgment made in A.S.No.77 of 2007 dated 18.11.2008 on the file of First Additional Subordinate Judge, Padmanabhapuram, Partly reversing the decree and judgment in O.S.No.521 of 2004 dated 28.02.2007 on the file of Principal District Munsif Court, Padmanabhapuram.



For Petitioners : Mr.VR.Shanmuganathan,
Special Govt. Pleader

For Respondents : Mr.R.Vijayakumar for R2 to R4

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ORDER

This Miscellaneous Petition has been filed seeking to condone the delay of 4013 days in filing the above Second Appeal.

2. The reason stated by the petitioner is that the appeal papers were mixed up with the other bundles and after tracing out the bundles, the same was sent to the Government for getting administrative orders and therefore, there had occurred a delay of 4013 days in filing the Second Appeal.

3. The petitioner mainly contended that the delay is administrative in nature and it is neither wilful nor wanton and hence, prays for appropriate orders.

4. The learned counsel appearing for the respondents 2 to 4 strongly opposes this petition by submitting that the reasons stated by the petitioners / appellants are merely administrative in nature and the delay is nearly eleven year and in the absence of proper and sufficient reasons, the huge delay cannot be condoned and prays for dismissal of this petition.

5. I have considered the rival submissions and I have also perused the materials available on record.

6. On a careful reading of the affidavit filed in support of this petition, it is seen that the delay of 4013 days in filing the second appeal have not been properly explained. Hence, this Court is not inclined to condone the delay. At the same time, there cannot be any prohibition for the petitioners/appellants to proceed with regard to the 'C' schedule property in the manner known to law, since the properties are claimed as Government properties.

7. Granting such liberty, this Civil Miscellaneous Petition is dismissed. Consequently, S.A(MD)SR.No.9026 of 2020 is rejected. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be responsibility of the advocate/litigant concerned.

To

1.The First Additional Subordinate Judge,
Padmanabhapuram.

2.The Principal District Munsif,
Padmanabhapuram.

+1cc to Mr.R.Vijayakumar, Advocate Sr.No.26978

C.M.P. (MD)No.3288 of 2020
in S.A. (MD)SR.No.9026 of 2020

22.12.2020

PM (CO)

NR (07/01/2020) 3P : 4C