

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 08.07.2020****CORAM****THE HONOURABLE MR.JUSTICE S.S.SUNDAR****C.R.P. (MD) .No.543 of 2020**

1.Mr.S.Jeyaraman

2.Mr.Kalimuthu

.. Petitioners/Respondents/
Respondents/Defendants

Vs

The Executive Officer,
Selection Grade Town Panchayat,
Manamadurai.... Respondent/Petitioner/
Appellant/Plaintiffs

Prayer: Civil Revision Petition filed under Section 115 of the Code of the Civil Procedure, to set aside the fair and decreetal order dated 20.02.2020 passed in I.A.No.1 of 2019 in unnumbered A.S.No..... of 2019 on the file of the Subordinate Court, Manamadurai, against O.S.No.26 of 2014 on the file of the District Munsif Court, Manamadurai.

For Petitioners

: Mr.D.Senthil

For Respondent

: Mr.J.Gunaseelan Muthiah

Additional Government Pleader

O R D E R

This Civil Revision Petition is preferred by the plaintiffs in the suit in O.S.No.26 of 2014, on the file of the District Munsif Court, Manamadurai, for permanent injunction and for mandatory injunction against the respondent regarding the formation of road to have access to the main road. The defendant in the suit is the Executive Officer of Manamadurai Town Panchayat. The suit was decreed.

2.The defendant in the suit has preferred an appeal before the Sub-Court, Sivagangai, with the delay of 187 days. Hence, the petition in I.A.No.1 of 2019 was filed by the respondent/defendant herein to condone the delay of 187 days in filing the appeal. Though the said petition was opposed by the revision petitioners herein, the trial Court accepting the reason given by the respondent/defendant allowed the said petition. Challenging the order of the lower Court allowing the petition to condone the delay of 187 days in filing the appeal as against the decree of trial Court, the above Civil Revision Petition is preferred.

3.The delay of 187 days has been explained by the respondent herein to the satisfaction of the Court. The reason for the delay has been accepted by the trial Court. The respondent is a local body, the men and machineries of which, were busy with the Parliament Election, during the relevant point of time. This is also stated as one of the reason for the delay. Therefore, the Lower Court has accepted the reason and exercised its discretion in the manner known to law and allowed the application on payment of cost of Rs.1,000/- to the revision petitioners herein on or before 28.02.2020.



4.The learned counsel appearing for the petitioners submitted that in the affidavit filed by the respondent herein in support of the petition to condone the delay, no reason has been given for the delay. He further stated that each day of delay has not been explained properly by the respondent herein. Since the respondent has failed to give reasons for the inordinate delay of 187 days and there is no valid explanation for each day of delay, it is submitted by the learned counsel for the petitioners that the lower Court has not exercised its discretion judicially.

5.This Court considered the affidavit filed by the respondent in support of the petition to condone the delay. Though reasons were given, the affidavit was not carefully drafted so as to get an impression that each day of delay is accounted.

6.Having regard to the facts and circumstances of the case, this Court is not inclined to interfere with the order of the Lower Court condoning the delay of 187 days. However, the respondent can be directed to pay a sum of Rs.2,500/- to the revision petitioners, instead of Rs.1,000/- as directed by the Lower Court by way of cost.

7.Hence, this Civil Revision Petition is dismissed. However, the respondent herein is directed to pay a sum of Rs.2,500/- (Rupees Two Thousand Five Hundred only) to the revision petitioners, instead of Rs.1,000/- as directed by the Lower Court. The respondent is directed to pay the above mentioned amount on or before 27.07.2020. No costs.

Sd/-

Assistant Registrar (Crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The Subordinate Court, Manamadurai.
- 2.The District Munsif Court, Manamadurai.
- 3.The Executive Officer,
Selection Grade Town Panchayat, Manamadurai.

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

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