



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2020

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THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.R.P(NPD) (MD)No.229 of 2014

WEB COPY

Gopal Muthaliyar : Petitioner/Petitioner/Appellant

Vs.

Govindamuthaliyar (died)

1.R.Muthumanickam

2.Rajeswari

: Respondents/Respondents/Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the fair and decreetal order passed in I.A.No.45 of 2013 in unfilled A.S. on the file of the Principal District Judge, Ramanathapuram, dated 05.12.2013.

For Petitioner

: No Appearance

For Respondents

: M/s.G.Vidhya Maheswaran

O R D E R

This Civil Revision Petition is filed against fair and decreetal order dated 05.12.2013, passed in I.A.No.45 of 2013 in unnumbered A.S. on the file of the Principal District Court, Ramanathapuram.

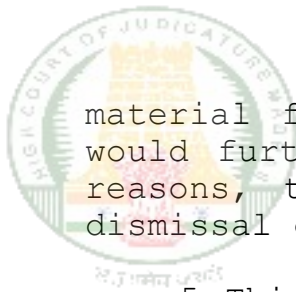
2. The brief facts of the case are as follows:

The petitioner filed a suit in O.S.No.26 of 2006 on the file of the Sub Court, Paramakudi against the respondents, for declaration declaring that the plaintiff is the absolute owner of the property; for permanent injunction restraining the defendants from the peaceful possession and enjoyment of the suit property by the plaintiff and also for recovery of possession. The said suit was dismissed on 08.09.2006. The petitioner filed an appeal along with an application in I.A.No.45 of 2013, to condone the delay of 2386 days in preferring the appeal. The said application was dismissed by the learned Principal District Judge, Ramanathapuram, vide order dated 05.12.2013, stating that the reasons for the delay of 2386 days in preferring the appeal have not been properly explained. Hence, this Civil Revision Petition.

3. There is no representation on behalf of the petitioner.

4. The learned counsel appearing for the respondents would submit that the learned Principal District Judge, on appreciation of

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material facts, has rightly dismissed the I.A.No.45 of 2013. He would further submit that in the absence of proper and sufficient reasons, the huge delay cannot be condoned and hence, prays for dismissal of this Civil Revision Petition.

5 This Court heard the submissions made by the learned counsel appearing for the respondents and also perused the materials placed before this Court.

6. The suit is of the year 2006 and the same was decreed on 08.09.2006 itself. However, the petitioner had chosen to file an appeal only in the year 2013 ie., after a period of seven years. In the delay condonation affidavit, the petitioner has not explained the reason for such inordinate delay. When such being the position, there is no other option left with the Court except to dismiss the application. The Honourable Supreme Court in **R.B.Ramlingam v. R.B.Bhuvaneswari** reported in **2009(2) SCALE 108**, has considered the delay of 568 days in filing the Special Leave Petition and observed as follows:

"3. ... Reading the said judgment, it also becomes clear that filing of Review Petition is no impediment to the filing of the special leave petition. Large number of judgments were cited before us by learned counsel. It is not necessary at this stage to discuss each and every judgment cited before us for the simple reason that Section 5 of the Limitation Act, 1963 does not lay down any standard or objective test. The test of "sufficient cause" is purely an individualistic test. It is not an objective test. Therefore, no two cases can be treated alike. The statute of Limitation has left the concept of "sufficient cause" delightfully undefined, thereby leaving to the Court a well-intentioned discretion to decide the individual cases whether circumstances exist establishing sufficient cause. There are no categories of sufficient cause. The categories of sufficient cause are never exhausted. Each case spells out a unique experience to be dealt with by the Court as such.

4. For the aforesaid reasons, we hold that in each and every case the Court has to examine whether delay in filing the special leave petition stands properly explained. This is the basic test which needs to be applied. The true guide is whether the petitioner has acted with reasonable diligence in the prosecution of his appeal/petition."

7. In **Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corporation** reported in **(2010) 5 Supreme Court Cases 459**, the Honourable Supreme Court considered the



inordinate delay on the part of the State Corporation in filing the appeal and observed as follows:

"14. We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time.

15. The expression "sufficient cause" employed in Section 5 of the Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which subserves the ends of justice. Although, no hard-and-fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate—*Collector (L.A.) v. Katiji* [(1987) 2 SCC 107 : AIR 1987 SC 1353], *N. Balakrishnan v. M. Krishnamurthy* [(1998) 7 SCC 123 : JT (1998) 6 SC 242] and *Vedabai v. Shantaram Baburao Patil* [(2001) 9 SCC 106]."

8. Though the expression "sufficient cause" should receive a liberal consideration, each case is to be decided on the facts and this Court is of the view that in the absence of proper and sufficient reasons, the delay of 2386 days in preferring the appeal, cannot be condoned.

9. In view of the above, the order dated 05.12.2013 passed in I.A.No.45 of 2013 in unnumbered A.S. by the learned Principal District Judge, Ramanathapuram, is confirmed and this Civil Revision Petition stands dismissed. No Costs.

Sd/-

Assistant Registrar (CS-I)

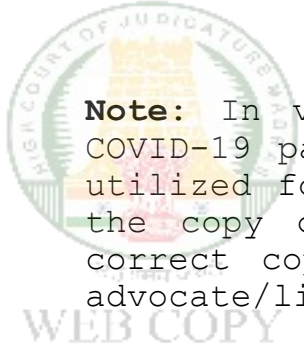
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To

The Principal District Judge,
Principal District Court,
Ramanathapuram.

Copy to: The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2)

+1 CC to Mr.V.SITHARANJANDAS, Advocate SR-23611.

C.R.P (NPD) (MD) No.229 of 2014
02.12.2020

MR(CO)
CS(16.12.2020) 4P 5C