

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM

The Hon'ble Mr.Justice Krishnan Ramasamy

**C.R.P (NPD)Nos.4846, 4829, 4830, 4839 of 2012
Nos.4212, 4213, 4366 to 4375, 1625 1627,1631 &1645 of 2012**

**C.R.P (NPD)Nos.1013, 1229, 1399, 1403,
1406, 1411, 1413, 1417, 2232 to 2237, 3991 of 2013**

C.R.P (NPD)No.4846 of 2012 :-

The State of Tamil Nadu

Represented by District Forest Officer

Attur.

... Revision Petitioner

vs.

P.Abisekam

...Respondent

PRAYER:

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.34 of 2012 in unnumbered CMA of 2012 dated 09.10.2012 on the file of the Principal District Court, Salem.

सत्यमेव जयते

Appearance of the counsels in all C.R.Ps.

Revision Petitioners in all C.R.Ps. -

Dr.S.Suriya

Government Counsel (CS)

&

Mr.Edwin Prabakar

Government Counsel (CS)

For Respondent in C.R.P
(NPD)No.4846 /12

: Mr.R.Marudhachalamurthy

Respondent in
C.R.P (NPD)No.4829, 4839,4212, 4213, 1625,
1627, 1631,1645,/12 &
C.R.P.(NPD)No.1403,1406, 1411, 1413, 1417,
4366 to 4375/2013 : Not ready in notice

Respondent in C.R.P (NPD)No.4830/12 &
Respondent in C.R.P (NPD)No.1013, 1229,
1399,3991/2013 : Died

COMMON ORDER

Since the challenge in all these Civil Revision Petitions is one and the same, viz., to the order passed by the Court below, whereby, the Applications filed by the revision petitioners to condone the inordinate delay in preferring the Civil Miscellaneous Appeal against the issuance of patta by the Forest Settlement Officer in favour of the respondents were dismissed, all these matters were heard together and disposed of vide this common order.

2. The learned Government Counsel (CS) appearing for the revision petitioners submits that the Forest Settlement Officer issued patta in favour

the respondents, who have encroached the reserved lands. Section 4 notification was issued vide Government Gazette on 12.05.1954, thereby, declaring the lands, measuring to an extent of 8855 acres, i.e. 3583.62 hectares, which were forest lands for the past 45 years as 'reserved lands'. The respondents herein and others have encroached upon reserved lands and the Settlement Officer issued patta to the respondents on various dates.

2.1 The learned Government Counsel (CS) further submitted that aggrieved over the grant of patta in favour of the respondents by the Settlement Officer, the revision petitioners herein preferred Civil Miscellaneous Appeals before the Court below. However, since there happened to be an inordinate delay in preferring such Appeals, Condone Delay Applications were filed by the revision petitioners. According to the learned Government Counsel appearing for the revision petitioners, the delay was purely on administrative reasons, viz. to get consent/approval from the Higher Authorities, to prefer such Appeals. However, the Court below, without considering the said aspect, due to non-application of mind, dismissed the condone delay applications, thereby, giving a clean sheet to

the respondents/encroachers to retain the reserved lands.

2.2 The learned Government Counsel (CS) appearing for the revision petitioners further brought to the notice of this Court that, apart from the present Civil Revision Petitions, there were number of Civil Revision Petitions, which were filed challenging the dismissal of such Condone Delay Applications, and some of the Civil Revision Petitions were allowed by this Court and the delay was condoned, pursuant to which, the Civil Miscellaneous Appeals were numbered, and ultimately, such Appeals were also allowed in the favour of the revision petitioners by cancelling the patta granted by the Settlement Officer.

2.3 The learned Government Counsel also produced the order passed by this Court, in such batch of Civil Revision Petitions, viz., in C.R.P.(NPD) Nos.312, 313, etc. (batch) of 2014, dated 13.06.2019 and therefore, prayed to condone the delay, in the interest of justice, and to set aside the order passed by the Court below, for, if the delay is not condoned then, the interest of the revision petitioners would get highly prejudiced.

3. The learned counsel appearing for the respondent in C.R.P.(NPD) No.4846 of 2012, vehemently opposed for condoning the delay and submitted that, the delay exceeds more than 3000 days, hence, prayed for the dismissal of the Civil Revision Petitions.

4. In reply, the learned Government Counsel (CS) for the revision petitioners fairly admits that the delay varies from case to case basis, but the reason for the delay in all cases is one and the same, viz., due to administrative reasons, as the Government finds it much difficult to trace all the records so as to file Appeal within the time prescribed under the Tamil Nadu Forest Act. Thus, by stating so, the learned Government Counsel (CS) prayed for condoning the delay and allowing the Revision Petitions, as inasmuch as, the matter requires to be adjudicated, for which, an opportunity needs to be given.

5. Heard the learned counsel appearing for the revision petitioners and the respondent in C.R.P.(NPD)No.4846 of 2012, and perused the materials available on records.

6. On perusal of the records, it appears that the subject lands are reserved lands. The Forest Settlement Officer granted patta in favour of the respondents and other persons on various dates, who are alleged to be the encroachers by the revision petitioners. In some of the Civil Revision petitions, which were filed challenging the dismissal of the Condone Delay Applications in preferring the appeals, the delay was condoned and the Appeals were numbered and the same were allowed by the Court below, by cancelling the patta issued by the Forest Settlement Officer, which shows that the claim of the revisions petitioners has already been adjudicated before the Court below, in similar batch of Appeals.

6.1 Therefore, this Court is of the view that the delay needs to be condoned. Obviously, the subject lands are the reserved lands, which belongs to Government and even if the delay is not condoned, the revision petitioners are certainly entitled to remove the encroachments. That apart, by condoning the delay, no prejudice would be caused to the respondents. If at all, the respondents have anything to say on merit, they can very well agitate the claims before the Court below in the Appeals. Therefore, this

Court, in the interest of justice, is inclined to condone the delay, by taking note of the order passed by this Court in batch of Civil Revision Petitions, involving similar issue and circumstances, viz., in C.R.P.(NPD) Nos.312, 313, etc. of 2014, dated 13.06.2019.

7. In the result, the Civil Revision Petitions are allowed. No costs.

07.10.2021

Index: Yes/No
Speaking/Non-speaking Order
jd/sd

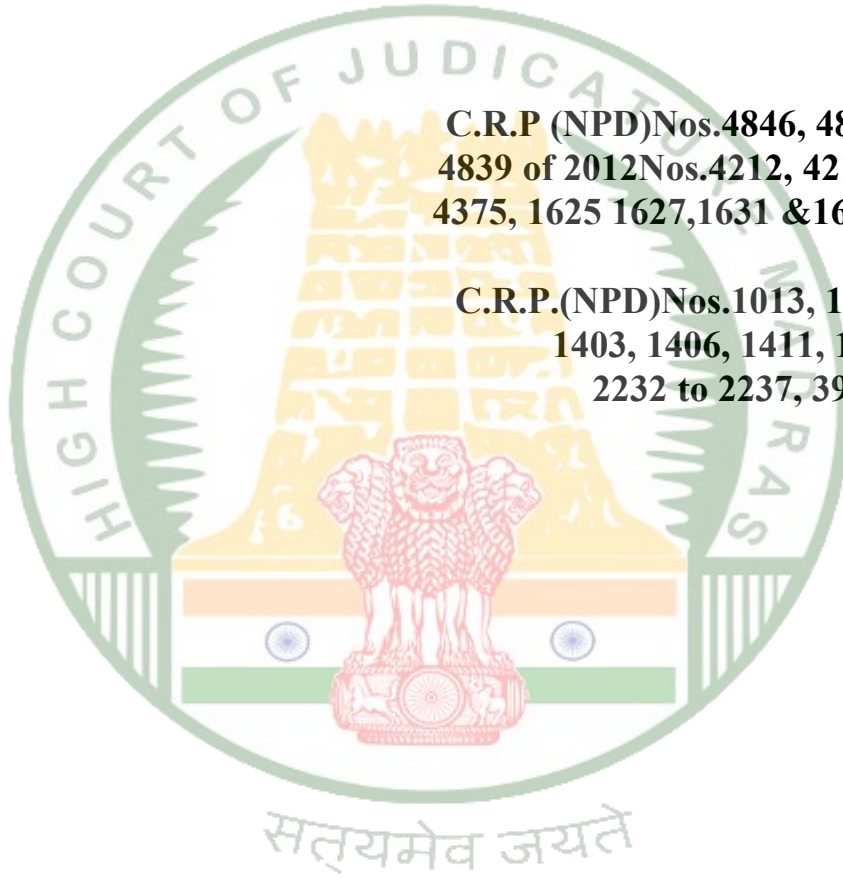
To
The Principal District Judge, Salem.



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Krishnan Ramasamy, J.

jd/sd



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