IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.10.2021

CORAM
The Hon'ble Mr.Justice Krishnan Ramasamy

C.R.P (NPD)No.4857 of 2012

The State of Tamil Nadu
Represented by District Forest Officer
Attur. ... Revision Petitioner

vs.

K.Anbalagan ...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.24 of 2012 in unnumbered CMA of 2012 dated 09.10.2012 on the file of the Principal District Court, Salem.

For Revision Petitioner - Dr.S.Suriya
Government Counsel (CS)
&
Mr.Edwin Prabakar
Government Counsel (CS)

For Sole Respondent - Mr.R.Marudhachalamurthy

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O R D E R

This Civil Revision Petition is filed against the order passed by the Principal District Court, Salem, in I.A.No.24 of 2012 in unnumbered CMA of 2012 dated 09.10.2012.

2. By virtue of the aforesaid impugned order, the Application filed by revision Petitioner herein to condone the delay of 3386 days in preferring the Civil Miscellaneous Appeal against the issuance of patta by the Forest Settlement Officer in favour of the respondent was dismissed by the Court below.

3. The learned Government Counsel (CS) appearing for the revision petitioner submits that the Forest Settlement Officer issued patta in favour the respondent and other private parties, who have encroached the reserved lands. Section 4 notification was issued vide Government Gazette on 12.05.1954, thereby, declaring the land, measuring to an extent of 8855 acres, i.e. 3583.62 hectares, which were forest lands for the past 45 years as

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reserved land. The respondent herein and others have encroached upon reserved lands and the Settlement Officer issued patta to the respondent and other encroachers on various dates.

3.1 The learned Government Counsel (CS) further submitted that aggrieved over the grant of patta in favour of the respondent and other 1263 persons by the Settlement Officer, the revision petitioner preferred Civil Miscellaneous Appeal before the Court below. However, since there happened to be inordinate delay in preferring such Appeals, Condone Delay Applications were filed. According to the learned Government counsel, the delay was purely on administrative reasons, viz. to get consent/approval from the Higher Authorities, to prefer such Appeal. However, the Court below, without considering the said aspect, due to non-application of mind, dismissed the condone delay application, thereby, giving a clean sheet to the encroachers to retain the reserved lands.

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3.2 The learned Government Counsel (CS) appearing for the revision petitioner further brought to the notice of this Court that, apart from

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the present Civil Revision Petition, 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 petitioner by cancelling the patta granted by the Settlement Officer.

3.3 The learned Government counsel (CS) 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 petitioner would get highly prejudiced.

4. The learned counsel appearing for the respondent vehemently opposed for condoning the delay as the delay was more than 3000 days, hence, he prayed for the dismissal of the present Civil Revision Petition.

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5. In reply, the learned Government Counsel (CS) 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 its 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 Petition, as inasmuch as, the matter requires to be adjudicated, for which, an opportunity needs to be given, failing which, public interest will be affected.

6. Heard the learned counsel appearing for the revision petitioner and the respondent, and perused the materials available on records.

सत्यमेव जयते

7. On perusal of the records, it appears that the subject lands are reserved lands. The Forest Settlement Officer granted patta in favour of the respondent and other 1263 persons on various dates, who are alleged to be the encroachers by the revision petitioner. In some of the Civil Revision

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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 petitioner has already been considered by the Court below in similar batch of Appeals.

7.1 Therefore, this Court, in the interest of justice, is of the view that the delay needs to be condoned. Obviously, the subject lands are the reserved lands, which belongs to the Government and even if the delay is not condoned, the revision petitioner is certainly entitled to remove the encroachments.

7.2 . Under the aforesaid circumstances, this Court is of the view that it would be appropriate to condone the delay and by doing so, no prejudice would be caused to the respondent. If at all, the respondent has anything to say on merit, the respondent can very well agitate the claim before the Court below in the Appeal. Therefore, this Court is inclined to condone the delay,

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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.

8. In the result, the Civil Revision Petition is allowed. No costs.

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

To
The Principal District Judge, Salem.

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Krishnan Ramasamy, J.,

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