



C.R.P.(PD).Nos.2933 to 2935 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2021

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.R.P.(PD)Nos.2933 to 2935 of 2015

The President,  
Somayampalayam Panchayat,  
Somayampalayam,  
Coimbatore.

**.. Petitioner in all C.R.Ps.**

Vs.

1.S.K.Mylsamy

2.V.Anandkumar

**.. Respondents in  
C.R.P.Nos.2933 & 2934/2015**

1.S.K.Mylsamy

2.V.Anandkumar

3.The Secretary,  
S.K.V. Nagar Residents Welfare Association,  
Sultanpuram, Somayampalayam,  
Bharathiyar University Post,  
Coimbatore 641 046.

**.. Respondents in  
C.R.P.No.2935/2015**



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**Common Prayer:** Civil Revision Petitions filed under Section 115 of C.P.C., to set aside the fair and final orders dated 30.04.2015 made in I.A.Nos.458 to 460 of 2014 in A.S.C.F.R.Nos.21018, 21014 & 21016 of 2014 respectively on the file of the Principal Sub Court, Coimbatore.

**(In C.R.P.Nos.2933 & 2934 of 2015)**

For Petitioner : Mr.L.Mouli

For Respondents : Mr.C.R.Prasanan

**(In C.R.P.No.2935 of 2015)**

For Petitioner : Mr.L.Mouli

For Respondents : Mr.C.R.Prasanan (For R1 & R2)

Mr.A.Ilaya Perumal (For R3)

**COMMON ORDER**

(The matter is heard through 'video conferencing/hybrid mode')

These Civil Revision Petitions are filed against the fair and decreetal orders dated 30.04.2015 made in I.A.Nos.458 to 460 of 2014 in A.S.C.F.R.Nos.21018, 21014 & 21016 of 2014 respectively on the file of the Principal Sub Court, Coimbatore.



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2.The issues and parties involved in all the Civil Revision Petitions are one and the same and hence, they are disposed of by this common order.

3.The petitioner is defendant in O.S.Nos.2535 and 2943 of 2006 and 2<sup>nd</sup> defendant in O.S.No.2719 of 2006. The respondents in C.R.P.Nos.2933 and 2934 of 2015 filed the above two suits against the petitioner for a permanent injunction, restraining the petitioner from interfering with their peaceful possession and enjoyment of the suit property. The respondents 1 and 2 in C.R.P.No.2935 of 2015 filed the suit in O.S.No.2719 of 2006 against the 3<sup>rd</sup> respondent and petitioner, for a declaration to declare that the Settlement deed dated 28.09.2006 executed by the 3<sup>rd</sup> respondent in respect of the suit property in favour of the petitioner as null and void and for a permanent injunction, restraining the petitioner from interfering with the peaceful possession and enjoyment of the suit property. The petitioner filed written statement and contested the suits. After full fledged trial, all the three suits were decreed as prayed for. The petitioner filed three appeals against the said judgments and



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decrees with I.A.Nos.458 to 460 of 2014, to condone the delay of 968 days in filing those appeals. According to the petitioner, he is the present President of petitioner Panchayat. The erstwhile President conducted the suit proceedings. After election, the present President assumed charge. At that time, the erstwhile President did not hand over the case files to the present Panchayat President. The present President of petitioner Panchayat came to know about the judgments and decrees from the respondents and immediately he contacted the Government Pleader and filed the appeals. The delay has occurred only due to the intervening election, new President's assuming office and failure on the erstwhile President to hand over the files to the present Panchayat President. The delay is neither willful, nor wanton. Unless the delay is condoned, the public properties will be affected and prayed for allowing all the appeals.

4.The respondents in C.R.P.No.2933 and 2934 of 2015 and respondents 1 and 2 in C.R.P.No.2935 of 2015 filed separate counter affidavits and denied all the averments in the affidavits and submitted that the reason given by the petitioner is not valid and sufficient to



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condone the delay. All the files relating to the cases will be available in the Panchayat office only. In view of the same, the reason given by the present President of the petitioner Panchayat is not acceptable and prayed for dismissal of the applications.

5.The learned Judge, considering the averments in the affidavits and counter affidavits, by three separate orders dated 30.04.2015 made in I.A.Nos.458 to 460 of 2014, dismissed all the three applications, holding that the reason given by the petitioner is not believable, acceptable and sufficient.

6.Against the said orders dated 30.04.2015 made in I.A.Nos.458 to 460 of 2014 in A.S.C.F.R.Nos.21018, 21014 & 21016 of 2014, the petitioner has come out with the present Civil Revision Petitions.

7.Heard the learned counsel appearing for the petitioner and respondents in all the Civil Revision Petitions and perused the entire materials available on record.



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8.From the materials on record, it is seen that the respondents in C.R.P.Nos.2933 and 2934 of 2015 filed two suits in O.S.Nos.2535 and 2943 of 2006 for permanent injunction and the respondents 1 and 2 in C.R.P.No.2935 of 2015 filed the suit in O.S.No.2719 of 2006 for a declaration to declare that the Settlement deed dated 28.09.2006 as null and void and for permanent injunction. After full fledged trial, all the three suits were decreed in favour of the respondents. Challenging the said judgments and decrees, the petitioner filed appeals with applications to condone the delay of 968 days in filing the appeals. According to the petitioner, the present President was elected as President of the petitioner Panchayat and erstwhile President of the petitioner Panchayat did not hand over the files relating to the suits to the present President. Only after coming to know of the suits and the judgments and decrees from the respondents, the petitioner approached the Government Pleader and filed appeals. Due to the same, delay has occurred in filing the appeals. The respondents have not denied that the suits are conducted by the erstwhile President and subsequently, new President has been elected and assumed



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office. The issue in the suit relates to the property being gifted to the Panchayat by the 3<sup>rd</sup> respondent-Association in C.R.P.No.2935 of 2015. The respondents are challenging the gift granted to the Panchayat in respect of lay out. The gift given to the Panchayat is for forming a Children's Park. The gift is for the benefit of all the members of the Panchayat as well as the owners and residents of the lay out. The land was allotted for public purpose. In view of the above fact that the dispute is with regard to the land given for public purpose, in the interest of justice as well as in the public interest, the petitioner must be given an opportunity to put forth their case on merits. At the same time, the inconvenience and hardship caused to the respondents in C.R.P.Nos.2933 and 2934 of 2015 and respondents 1 and 2 in C.R.P.No.2935 of 2015 have to be compensated. Hence, it will be just and proper to direct the petitioner to pay a sum of Rs.7,500/- each by way of Demand Draft in favour of (1) S.K.Mylsamy and (2) V.Anand Kumar and send the said Demand Drafts by way of Registered Post, within a period of four weeks from the date of receipt of a copy of this order. On such payment, the impugned orders of the Principal Subordinate Judge, Coimbatore,



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dismissing the applications will be set aside and I.A.Nos.458 to 460 of 2014 will be allowed. If the petitioner fails to pay the amounts within the time granted by this Court, the orders of the learned Judge dated 30.04.2015 made in I.A.Nos.458 to 460 of 2014 will be confirmed.

With the above direction, all the Civil Revision Petitions are allowed. No costs.

**09.12.2021**

Index :: Yes/No  
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To  
The Principal Subordinate Judge,  
Coimbatore.



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**V.M.VELUMANI, J.**

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