

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

THE HON'BLE MR. JUSTICE A.D. JAGADISH CHANDIRA

**C.R.P. (NPD) No. 2190 of 2013
and
M.P. No. 1 of 2013**

Radhamani

... Petitioner

-VS-

The Estate Officer/Sub Collector,
Mettur,
Salem District.

... Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the decree and judgment passed in C.M.A. No. 23 of 2009 dated 11.02.2013 on the file of the III Additional District and Sessions Judge, Salem.

For Petitioner : Mr. S.Doraisamy

For Respondent : Mr. Y.T.Aravind Gosh,
Additional Government Pleader (C.S.)

ORDER
(The case has been heard through video conference)

The Civil Revision Petition has been filed against the order dated 11.02.2013 in C.M.A. No. 23 of 2009 passed by the III Additional District and Sessions Court, Salem dismissing the appeal filed by the Petitioner against the order passed by the Estate Officer/Sub Collector, Mettur in Na. Ka. 3783/2009(B) dated 08.09.2009 to evict the Appellant from the encroached property as per the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975.

2. The Learned Additional Government Pleader (C.S.) appearing for the Respondent would submit that as per Section 10 of the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975, every order made by an estate officer or appellate officer under this Act shall be final and shall not be called in question in any original suit, application or execution proceedings and in view of the specific bar, the Civil Revision Petition is not maintainable.

3. At this juncture, the Learned Counsel for the Petitioner would submit that the Petitioner had filed the Civil Revision Petition under the bonafide belief that it is maintainable under law. He would further submit that there is no

malafides intention on the part of the Petitioner to file the revision and prolong the case and it is only a genuine mistake. However, he would further submit that liberty may be granted to the Petitioner to withdraw the Civil Revision Petition and file appropriate Writ Petition before this Court. He would further submit that the Petitioner had been earnestly proceeding with this case and the bonafides of the Petitioner may be duly considered by this Court for condoning the delay. In support of his contention, the Learned Counsel for the Petitioner would rely on the judgment of the Hon'ble Supreme Court of India ***P.Sarathy vs. Tate Bank of India*** reported in AIR 2000 SC 2023 and ***M/s. Consolidate Engineering Enterprises vs. Principal Secretary, Irrigation Department*** reported in (2008) 7 SCC 169.

4. The Learned Additional Government Pleader (C.S.) appearing for the Respondent would submit that it is for the concerned Writ Court to take into consideration the delay and the concerned Writ Court has to condone the delay in accordance with law.

5. In view of the above, liberty is granted to the Petitioner to withdraw the Civil Revision Petition. It is open to the concerned Writ Court to decide the issue regarding limitation on its own merits in accordance with law.

6. With the above observation, the Civil Revision Petition is dismissed as withdrawn. Consequently, the connected Miscellaneous Petition is closed. No costs.

26.04.2021

vjt

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

Note: Registry is directed to return the certified copy of the impugned order to the Petitioner under written acknowledgement after retaining a copy of the same for record.

To

1. The III Additional District and Sessions Court,
Salem.
2. The Estate Officer/Sub Collector,
Mettur,
Salem District.

WEB COPY

A.D. JAGADISH CHANDIRA, J.

vjt



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