

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Thursday, the Eighth day of April Two Thousand Twenty One

PRESENT

THE HON`BLE MR JUSTICE M.M.SUNDRESH

and

THE HON`BLE MS JUSTICE R.N.MANJULA

CMP.Nos.6855, 6863, 6872, 6878, 6961, 6977 and 6986 of 2019 in
WA.SR.Nos.32361, 32360, 32364, 32363, 32359, 32362 and 32365 of 2019

THE EXECUTIVE ENGINEER AND [PETITIONER IN ALL THE
ADMINISTRATIVE OFFICER, THE TAMIL NADU PETITIONS]
HOUSING BOARD, COIMBATORE HOUSING UNIT,
TATABAD, COIMBATORE-641012

Vs

1 LEELA NARAYANASWAMY ... RESPONDENT in CMP No.6855 of 2019
2 MRS.YOGAMBAL
3 MANOJ KUMAR
4 THIRUGNANAM
5 SYLVIA AMALRAJ
6 DORAIVELU
7 PRAVEEN

8 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY HOUSING AND URBAN
DEVELOPMENT DEPARTMENT FORT ST GEORGE
CHENNAI-600009

9 THE SPECIAL THASILDAR (LA)
HOUSING SCHEME UNIT-III TATABAD COIMBATORE
COIMBATORE DISTRICT

1 K.NANU ... RESPONDENT in CMP No.6863 of 2019
2 J.V.VAITHEESWARAN
3 MRS.R.RAMANI

4 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY HOUSING AND URBAN
DEVELOPMENT DEPARTMENT FORT ST GEORGE
CHENNAI-600009

5 THE SPECIAL THASILDAR (LA)
HOUSING SCHEME UNIT-III TATABAD COIMBATORE
COIMBATORE DISTRICT

1 M.SIGAMANI ... RESPONDENT in CMP No.6872 of 2019
2 MRS.S.KRISHNAMMAL
3 MRS.R.RADHA
4 MRS.S.N.VANITHAMANI
5 M.SUMATHI
6 MRS.S.MEENAKSHI
7 MRS.MARIMUTHAMMAL
8 MRS.R.KANAGARATHINAM
9 SARASWATHY MANAVALAN
10 MRS.D.VIJAYALAKSHMI

11 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY HOUSING AND URBAN
DEVELOPMENT DEPARTMENT FORT ST GEORGE
CHENNAI-600009

12 THE SPECIAL THASILDAR (LA)
HOUSING SCHEME UNIT-III TATABAD COIMBATORE
COIMBATORE DISTRICT

1 DR.R.SUNDARESAN ... RESPONDENT in CMP No.6878 of 2019
2 G.RAMACHANDRAN
3 MRS.K.SHANTHINI
4 MRS.DHANALAKSHMI CHAKARAPANI
5 MRS.P.VASANTHA
6 MR.A.RAJAMANI
7 MR.S.MANICKAM
8 MR.C.P.NATARAJAN
9 MRS.N.NEELAVATHY
10 MRS.M.S.KALYANI

11 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY HOUSING AND URBAN
DEVELOPMENT DEPARTMENT FORT ST GEORGE
CHENNAI-600009

12 THE SPECIAL THASILDAR (LA)
HOUSING SCHEME UNIT-III TATABAD COIMBATORE
COIMBATORE DISTRICT

1 SATHYAMOORTHY ... RESPONDENT in CMP No.6961 of 2019
2 MANICKAM
3 VELUSAMY
4 ANANDHAN
5 BAKTABVATSALAM
6 JAYANTHI
7 VENKATESH
8 PRIYA
9 JAYAPRAKASH

- 10 THE STATE OF TAMILNADU
REP BY ITS SECRETARY HOUSING AND URBAN
DEVELOPMENT DEPARTMENT FORT ST.GEORGE
CH-09.
- 11 THE SPECIAL THASILDAR (LA)
HOUSING SCHEME UNIT III TATABAD COIMBATORE
COIMBATORE DIST.

1 R.LAKSHMANAN ... RESPONDENT in CMP No.6977 of 2019
2 M.MURTHY
3 A.R.RAVIBOSE
4 PALLAVI MAGITHIA
5 S.PARAMASIVAM
6 M.A.KRISHNAJI
7 S.MUTHUSAMY
8 R.SUNDARESHWARAN
9 N.BALASUBRAMANIAM
10 V.NAGARAJAN
11 K.R.VIAJAYAKUMAR
12 A.MALARKUZHALI
13 G.SANGAMESWARAN
14 PADMA MAGUDAPATHY
15 S.RAMASAMY
16 LEELA NARAYANASAMY

- 17 THE STATE OF TAMILNADU
REP BY ITS SECRETARY HOUSING AND URBAN
DEVELOPMENT DEPARTMENT FORT ST GEORGE
CH-09.
- 18 THE SPECIAL THASILDAR (LA)
HOUSING SCHEME UNIT III TATABAD COIMBATORE
DISTRICT.

1 V.BOOPATHY ... RESPONDENT in CMP No.6986 of 2019
2 K.MAHADDEVAN
3 C.PRABHAVATHI
4 S.PREMA LEELA
5 M.PRASANNA VENKATESH
6 M.GOPAL
7 V.MANICKAM
8 M.NEELAMBAL
9 G.LEELAVATHY
10 T.THIRUMURTHY
11 A.MARY RAJAMANI
12 K.S.RAMKUMAR

- 13 THE STATE OF TAMILNADU
REP BY ITS SECRETARY HOUSING AND URBAN
DEVELOPMENT DEPARTMENT FORT ST GEORGE
CH-09.

14 THE SPECIAL THASILDAR (LA)
HOUSING SCHEME UNIT III TATABAD COIMBATORE
COIMBATORE DIST.

Petitions praying that in the circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

1 CMP No.6855 of 2019

To condone the delay of 1103 days in filing the Writ Appeal against the order dated 15.4.2016 passed by the Learned Judge in WP.No.16544/2013

2 CMP No.6863 of 2019

To condone the delay of 1103 days in filing the Writ Appeal against the order dated 15.4.2016 passed by the Learned Judge in WP.No.15599/2013

3 CMP No.6872 of 2019

To condone the delay of 1103 days in filing the Writ Appeal against the order dated 15.4.2016 passed by the Learned Judge in WP.No.16543/2013

4 CMP No.6878 of 2019

To condone the delay of 1103 days in filing the Writ Appeal against the order dated 15.4.2016 passed by the Learned Judge in WP.No.16542/2013

5 CMP No.6961 of 2019

To condone the delay of 1103 days in filing the Writ Appeal against the order dated 15.4.2016 passed by the Learned Judge in WP.No.13613/2013.

6 CMP No.6977 of 2019

To condone the delay of 1103 days in filing the Writ Appeal against the order dated 15.4.2016 passed by the Learned Judge in WP.No.15597/2013.

7 CMP No.6986 of 2019

To condone the delay of 1103 days in filing the Writ Appeal against the order dated 15.4.2016 passed by the Learned Judge in WP.No.15598/2013.

Order : These petitions coming on for orders upon perusing the petition and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.DR.R.GOURI Advocate for the petitioner in all the petitions and of MR.S.N.AMARNATH Advocate for respondents 1 to 7 in CMP.No.6855/2019 and 1 to 3 respondents in CMP.No.6863/2019 and 1 to 10 respondents in CMP No.6872/2019 and 1 to 10 respondents in CMP No.6878/2019 and 1 to 9 respondents in CMP No.6961/2019 and 1 to 16 respondents in CMP No.6977/2019 and 1 to 12 respondents in CMP No.6986/2019 and the respondents 8 & 9 in CMP.No.6855/2019 and 4 & 5 respondents in CMP.No.6863/2019 and 11 &

12 respondents in CMP No.6872/2019 and 11 & 12 respondents in CMP No.6878/2019 and 10 to 11 respondents in CMP No.6961/2019 and 17 to 18 respondents in CMP No.6977/2019 and 13 to 14 respondents in CMP No.6986/2019 not appearing either in person or by an advocate the court made the following order:-

[Order of the Court was made by M.M.SUNDRESH, J.]

Inasmuch as common issues are involved in all these petitions, they have been taken up together and disposed of by a common order.

2.Mr.S.N.Amarnath, learned counsel takes notice for respondents 1 to 7.

3.The contesting respondents being the writ petitioners consist of two sets of entities viz., the original owners and subsequent purchasers filed the writ petitions on the earlier round of litigation in the year 1987, challenging the acquisition proceedings. The writ petitions were allowed and challenging the same, writ appeals were filed. The writ appeals attained finality by the orders passed on 27.11.1996. We may note that the award was passed on 04.12.1987.

4.After the coming into force of Act 30 of 2013 (Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Settlement Act, 2013), the respondents once again approached this Court seeking to invoke Section 24(2) of Act 30 of 2013 on the premise that the possession still lies with them. The learned single Judge allowed the writ petitions. Challenging the same, the appeals have been filed with condonation of delay of 1103 days by the petitioner, who is the beneficiary, being the Housing Board, for whom, the lands are acquired.

5.Learned counsel appearing for the petitioner submitted that the delay has occasioned both in terms of the administrative reasons and in view of the change of law. Such a delay was due to the co-ordination between the two entities viz., the petitioner and the Government. Opinion of the Government Pleader has been sought for, much thereafter, steps have been taken. Reliance has been made on paragraphs 8 and 9 of the affidavit filed, which are verbatim and similar in all the cases.

6.Incidentally, it is submitted that the question of possession has been dealt with in extenso by the larger bench of the Apex Court in Indore Development Authority and another Vs. Shyam Verma and Others ((2018) 3 SCC 405). Therefore, considering the facts, especially when the proceedings are put to challenge and reached finality in 1996 and possession having been taken, the reasons assigned will have to be accepted and opportunity to contest may be granted.

7.Learned counsel for the contesting first respondent in all these petitions submitted that the delay has not been explained properly. Learned single Judge has recorded the factum of possession having not been taken from the first respondent. It is further submitted that subsequent writ petitions were filed and even during the pendency of the appeal, patta was directed to be mutated in favour of the first respondent in all the cases. Now, these petitions have been filed with a huge delay, which has not been explained properly. Therefore, these petitions will have to be dismissed.

8.As rightly submitted by the learned counsel for the petitioner, law has finally been settled on a reference before the Apex Court in the judgment referred supra and the Apex Court considered the issue in extenso. Though the reasons assigned in paragraphs 8 and 9 of the affidavit filed in support of these petitions are not sufficient, we are inclined to allow these petitions on terms, particularly, in the light of the law settled by the Apex Court. After all, the proceedings have been concluded by culmination of the award having been passed in the year 1987. This is the second round of litigation initiated by the respondents. Thus, the logic which can be applied in favour of the first respondent in all these petitions will have to be extended for different reason in favour of the petitioner, who is nothing but a requisitioning body and therefore, not the acquisition authority.

9.After all, the length of delay is one of the factors to be considered by the Court while exercising the power under Section 5 of the Limitation Act. A technical or pedantic approach is not expected to be adopted when there involves an element of public interest along with the legal issues. Therefore, even on this ground, we are inclined to condone the delay.

10.Thus, considering the above, we are inclined to allow all these petitions on terms. Accordingly, the delay is condoned and these petitions are allowed on condition that the petitioner pays a sum of Rs.5,000/- to the first respondent in each petition, within a period of four weeks from the date of receipt of a copy of this order. The amount will have to be tendered to the learned counsel for the first respondent in each petition.

-sd/-

08/04/2021

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Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY,
GOVERNMENT OF TAMILNADU HOUSING AND URBAN
DEVELOPMENT DEPARTMENT, FORT ST GEORGE,
CHENNAI-600009

2 THE SPECIAL THASILDAR (LA)
HOUSING SCHEME UNIT-III, TATABAD, COIMBATORE,
COIMBATORE DISTRICT

3 THE EXECUTIVE ENGINEER AND
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HOUSING BOARD, COIMBATORE HOUSING UNIT,
TATABAD, COIMBATORE-641012

Order

in

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WA.SR.Nos.32361, 32360, 32364, 32363, 32359, 32362 and 32365 of 2019

Date :08/04/2021

From 26.2.2001 the Registry is issuing certified
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