

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.01.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CMP.No.13923 of 2020 in STA SR.No.62699 of 2020

R.Rathina ... Petitioner/Appellant
sought to be preferred
STA SR. No. 62699/2020

-vs-

1. The State of Tamil Nadu
rep. by the Collector of Nilgiris,
Collectorate, Ootacamund,
The Nilgiris.
2. Settlement Officer
(Gudalur Janmam Lands),
Gudalur, Gudalur Bazaar Post,
The Nilgiris.
3. The District Forest Officer,
Gudalur Division, Gudalur,
The Nilgiris.
4. The Tahsildar,
Taluk Office, Pandalur,
The Nilgiris.
5. The Joint Receiver,
T.N.Godavaraman Thirumalpad,
Nilambur Kovilakam,
Malapuram District, Kerala State. ...Respondents/Respondents
sought to be preferred
STA SR. No. 62699/2020

Civil Miscellaneous Petition filed under Order 41 Rule 3-A
of A.S. Rules r/w Section 29(2) of the Limitation Act 1963
praying to condone the delay of 372 days in filing of
STA.SR.No.62699 of 2020 sought to be preferred against the
setaside the order dated 19.12.2018 made in C.M.A. No. 99/2009
on the file of the Court of the District Judge and Janmam Estate
Abolition Tribunal of the Nilgiris, Udahgamandalam confirming
the orders of the Settlement Officer(Gudalur Janmam Lands)

Udhagamandalam dated 30.03.2009 passed in Rc.V. No. 58020/2007 rejecting Ryotwari Patta to the Appellant and direct grant of Ryotwari Patta.

For Petitioner : Mr.John Zachariah

For Respondents: ...

ORDER

The present Civil Miscellaneous Petition has been filed seeking to condone the huge and unexplained delay of 372 days in filing of above STA.SR.No.62699 of 2020.

2. Mr.John Zachariah, learned Counsel appearing for the petitioner would submit that after the Settlement Officer, Gudalur Janmam Lands, Collectorate, Ootacamund, The Nilgiris, the 2nd respondent herein, passed an order dated 30.03.2009 rejecting the request of the petitioner to grant Ryotwari Patta under Section 9 of the Tamil Nadu Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 24/69 in respect of O.S.No.171/6B, R.S.No.227/3, 4pt having an extent of 7.50 acres in Gudalur Village, Gudalur Taluk, The Nilgiris District under Section 12(1) of the Act, an appeal was filed in CMA.No.99/2009 within time before the District Judge of Nilgiris and the Jenmam Estate Abolition Tribunal at Ootacamund, The Nilgiris, who also after considering the case of the petitioner, while confirming the order dated 30.03.2009 passed by the 2nd respondent Settlement Officer, dismissed the appeal filed by the petitioner herein by the impugned judgment and decree dated 19.12.2018. Aggrieved thereby, the petitioner has been advised to file further appeal before this Court. Accordingly, the present Statutory Appeal was filed before this Court.

3. Learned Counsel for the petitioner would further submit that after the dismissal of the appeal by the District Judge of Nilgiris and the Jenmam Estate Abolition Tribunal at Ootacamund, The Nilgiris, a Statutory Appeal has to be filed within 90 days. But the petitioner has filed the appeal before this Court only on 22.09.2020 as the copy application for the order passed in CMA.No.99/2009 dated 19.12.2018 was applied only on 01.07.2020 which was made ready on 06.07.2020 and delivered on 07.07.2020. Further, since the issue regarding the lands falling within the ambit of Section 17 of Gudalur Jenmam Estates (Abolition and Conversion into Ryotwari) Act, 1969 is being agitated by the Association in which the petitioner is also one of the members before the Apex Court in W.P.(C) No.202/1995 and the issue was also pending before the Apex Court, it was felt that the orders passed by the Apex Court would have a direct bearing on any appeal that may be filed before this Court, therefore, the

petitioner has applied for copy application belatedly and thereafter, this STA.SR.62699/2020 has been filed on 14.12.2020 before this Court with a delay of 372 days. Therefore, the delay is neither willful nor wanton, but only due to the aforesaid reason. Hence, the delay of 372 days in preferring the appeal before this Court may be condoned, it is pleaded. Learned Counsel would also submit that if this Court feels that with any terms, the delay may be condoned, the petitioner would also abide by the same.

4. But we are unable to find any sufficient cause to condone the huge and unexplained delay of 372 days in preferring the above appeal. The reason being that if it is a simple or reasonable delay in preferring the appeal, this Court, in usual course always condones the delay. Therefore, sufficient cause shall be given in the affidavit for condoning the delay in filing the appeal. This Court also invariably by mere asking, condones the delay even in filing the appeal, if it is a reasonable delay of 100 days or even 200 days. But beyond limit, we cannot condone any huge and unexplained delay. The Hon'ble Apex Court in *Municipal Council, Ahmednagar vs. Shah Hyder Baig* [1999 Supp (5) SCR 197], held that the doctrine of 'delay defeats justice and equity' in the matter of grant of relief shall be borne in mind while entertaining the application for delay, for, discretionary relief can be provided to the deserving parties who do not sleep over their rights. Equity favours a vigilant rather than an indolent citizen. This being the tenet of law, condoning the huge delay of 372 days would cause prejustice to other side. Therefore, in the present case, when no sufficient cause has been shown to condone the huge and unexplained delay of 372 days in preferring the above appeal, we are not inclined to condone the long delay.

5. In the result, the Civil Miscellaneous Petition fails and the same is accordingly dismissed. Consequently, connected STA.SR.No.62699 of 2020 is rejected.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Jenmam Estate Aboilition Tribunal of
The Nilgiris
Udhagamandalam

2.The Collector of Nilgiris,
State of Tamil Nadu
Collectorate, Ootacamund,
The Nilgiris.

3. Settlement Officer
(Gudalur Janmam Lands),
Gudalur, Gudalur Bazaar Post,
The Nilgiris.

4. The District Forest Officer,
Gudalur Division, Gudalur,
The Nilgiris.

5. The Tahsildar,
Taluk Office, Pandalur,
The Nilgiris.

6. The Joint Receiver,
T.N.Godavaraman Thirumalpad,
Nilambur Kovilakam,
Malapuram District, Kerala State

Copy to

1.The Sub Assistant Registrar
AE(Main) Section
High Court, Madras 104.

+1 CC to M/s. Fox Mandal Associates sr 262.

CMP.No.13923 of 2020 in
STA SR.No.62699 of 2020

SRA(CO)
SP(22/02/2021)

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