

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.01.2021

CORAM

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

CMP.No.13391 of 2020 in STA SR.No.37680 of 2020

C.M.I.Ashram & Mica Mount Estate
rep. by Fr.Sibi Francis,
S/o.Joseph, Gudalur Bazaar Post,
Gudalur, The Nilgiris. Petitioner

-vs-

1. The State of Tamil Nadu
rep. by the Collector of Nilgiris,
Collectorate, Ootacamund,
The Nilgiris.
2. Settlement Officer
(Gudalur Janmam Lands),
Collectorate, Ootacamund
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, Nilambur
Malapuram District, Kerala State. Respondents

Civil Miscellaneous Petition filed under order 41 Rule 3-A
of CPC read with section 29(2) of the Limitation Act, praying to
condone the delay of 61 days in filing of STA.SR.No.37680 of
2020.

STA.SR.37680 of 2020: Special Tribunal Appeal filed under Section
41 of the Gudalur Jenmam Estates (Abolition and Conversion into
Ryotwari) Act (XXIV of 1969) praying to allow the appeal and

setaside the order dated 30.09.2019 made in CMA.No.32/2016 on the file of the court of the District Judge and Janmam Estates Abolition Tribunal of the Nilgiris, Udhagamandalam confirming the orders of the settlement officer, (Gudalur Janmam Lands), Udhagamandalam, dated 31.12.2015 passed in SR.No.161/2007 rejecting Ryotwari patta to the Appellant and direct grant of Ryotwari patta.

For Petitioner : Mr.John Zachariah

For Respondents: Mr.Manikandan, G.A.,
1 to 4

ORDER

The present Civil Miscellaneous Petition has been filed seeking to condone the huge and unexplained delay of 61 days in filing of above STA.SR.No.37680 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 31.12.2015 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 Old Survey No.145/1A, 145/1B, 140 and 33/1A1A-Resurvey No.373/2, 373/3, 373/4 having an extent of 12.72 acres in Gudalur Village, Gudalur Taluk, The Nilgiris District under Section 12(1) of the Act, an appeal was filed in CMA.No.32/2016 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 31.12.2015 passed by the 2nd respondent Settlement Officer, dismissed the appeal filed by the petitioner herein by the impugned judgment and decree dated 30.09.2019. 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 05.08.2020 as the copy application for the order passed in CMA.No.32/2016 dated 30.10.2019 was applied belatedly. 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.37680/2020 has been filed on 05.08.2020 before this Court with a delay of 61 days. Therefore, the delay is neither willful nor wanton, but only due to the aforesaid reason. Hence, the delay of 61 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 unexplained delay of 61 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. 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. Equity favours a vigilant rather than an indolent citizen. This being the tenet of law, condoning the unexplained delay of 61 days would cause prejustice to other side. Therefore, in the present case, when no sufficient cause has been shown to condone the unexplained delay of 61 days in preferring the above appeal, we are not inclined to condone the delay of 61 days.

5. In the result, the Civil Miscellaneous Petition fails and the same is accordingly dismissed. Consequently, connected STA.SR.No.37680 of 2020 is rejected.

Sd/-
Assistant Registrar

/true copy/

Sub Asst. Registrar

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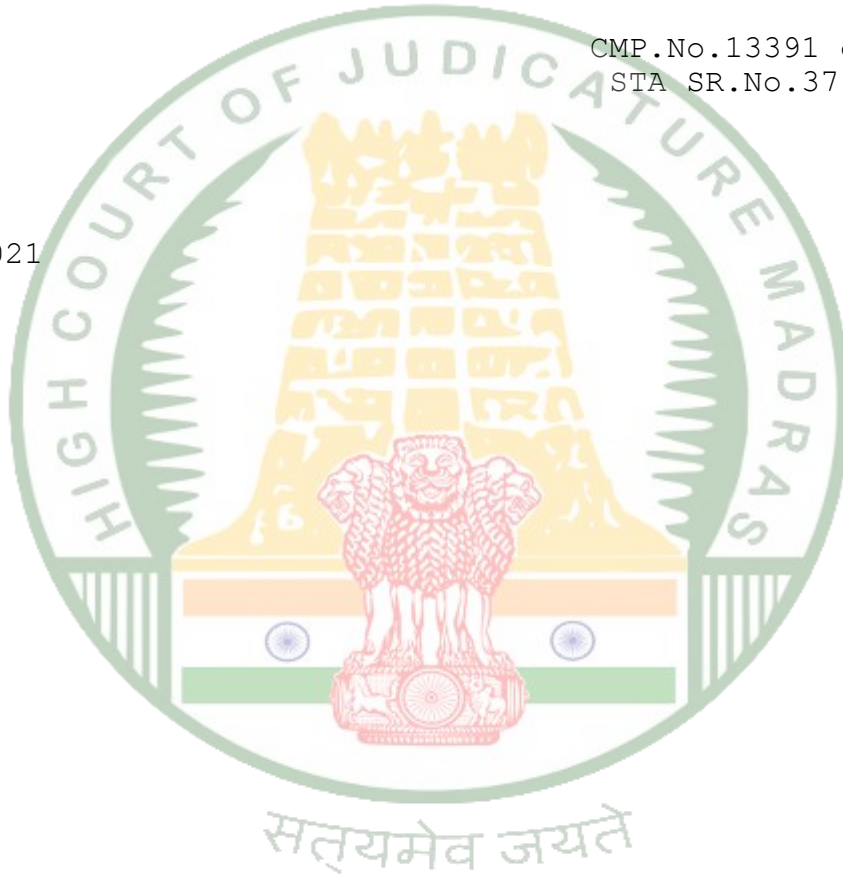
1.The District Judge and Janmam Estates
Abolition Tribunal of the Nilgiris
udhagamandalam

2.The Settlement officer
(Gudalur Janmam Lands)
udhagamandalam

+1 cc to M/s.Fox Mandal & Associates Advocte sr783

CMP.No.13391 of 2020 in
STA SR.No.37680 of 2020

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