

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

**C.R.P.(PD) No. 3979 of 2018
and CMP No.12215 of 2018**

- 1.M.S.Arumugam (died)
- 2.Usha Rani
- 3.Shanmuga Sundaram
- 4.Gayathri
- 5.Indhumathi

(Petitioners 2 to 5 brought on record as
LRs of the deceased sole petitioner
viz., M.S.Arumugam vide Court order
dated 04.12.2020 made in CMP No.12215
of 2020 in CRP 3979/2018 (RSMJ) ...

Petitioner

Vs

The Special Tahsildar
Land Acquisition,
Tamilnadu Housing Board,
Cuddalore,
Cuddalore District.

Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of
Constitution of India, to set aside the fair and decreetal order dated
31.08.2018 made in I.A.No.59 of 2017 in LAOP No.96 of 2007 on the
file of the II Additional Sub Court, Villupuram.

For Petitioners : Mr.N.Manokaran

For Respondent : Mr.A.Edwin Prabakar
Government Advocate (CS)

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 31.08.2018 made in I.A.No.59 of 2017 in LAOP No.96 of 2007 on the file of the II Additional Sub Court, Villupuram, thereby dismissing the petition to condone the delay in filing the review application.

2. The revision petitioner is the claimant in LAOP No.96 of 2007. The land belonging to the claimant and his brothers comprised in Survey No.50/1 was acquired by the respondent for implementation of NH Scheme of Tamil Nadu Housing Board. Originally, the land acquisition officer fixed the value for the land at Rs.8.80/- per sq.ft. Therefore, the petitioner along with his brothers filed a separate LAOP for the land for enhancement. The petitioner's LAOP No.99 of 2007 was allowed and the Reference Court enhanced the land value at Rs.30 per sq.ft. in respect of the other LAOP filed by his brothers in LAOP No.95 and 99 of 2007 were also allowed by a Judgment and Decree dated 28.04.2018 and determined the value at Rs.500 per sq.ft. Whereas, the petitioner's land was determined at Rs.30 per sq.ft. Therefore, the petitioner filed a review petition with a delay of 557 days in filing the review application.

3. A perusal of the affidavit filed in support of the condone delay petition reveals that the petitioner is taking care of his ailing daughter and as such he could not able to file the review application immediately. The Court below dismissed the condone delay petition for the reason that the earlier order was passed by the Reference Court on 31.08.2012. Thereafter, the other LAOP order was passed in the year 2016. Therefore, the review application on the strength of the later order is not maintainable and dismissed the condone delay petition.

4. The learned counsel for the respondent submitted that aggrieved by the Judgment and Decree passed in LAOP No.99 of 2007, the respondent preferred an appeal suit before this Court in A.S.No.822 of 2018 is pending for adjudication. He further submitted that the review is not maintainable to review the order in view of the order passed in later stage. Therefore, the Court below rightly dismissed the review application as not maintainable. The Court below ought not to have dismissed the petition to condone the delay in filing the review application on merits as the review itself is not maintainable. The Court below failed to pass any order in the condone delay petition on merits. The Court below can very well pass orders in the review application in

accordance with law. In view of the order passed by the Court below is liable to be dismissed.

5. In view of the above, the order passed by the II Additional Sub Judge, Villupuram in I.A.No.59 of 2017 in LAOP No.96 of 2007, dated 31.08.2018, is set aside. The Civil Revision Petition stands allowed on cost. The petitioner shall pay a sum of Rs.5,000/- to the respondents within a period of two weeks from the date of receipt of a copy of this order, failing which the order shall stand automatically cancelled. Consequently, connected Miscellaneous Petition is closed.

23.06.2021

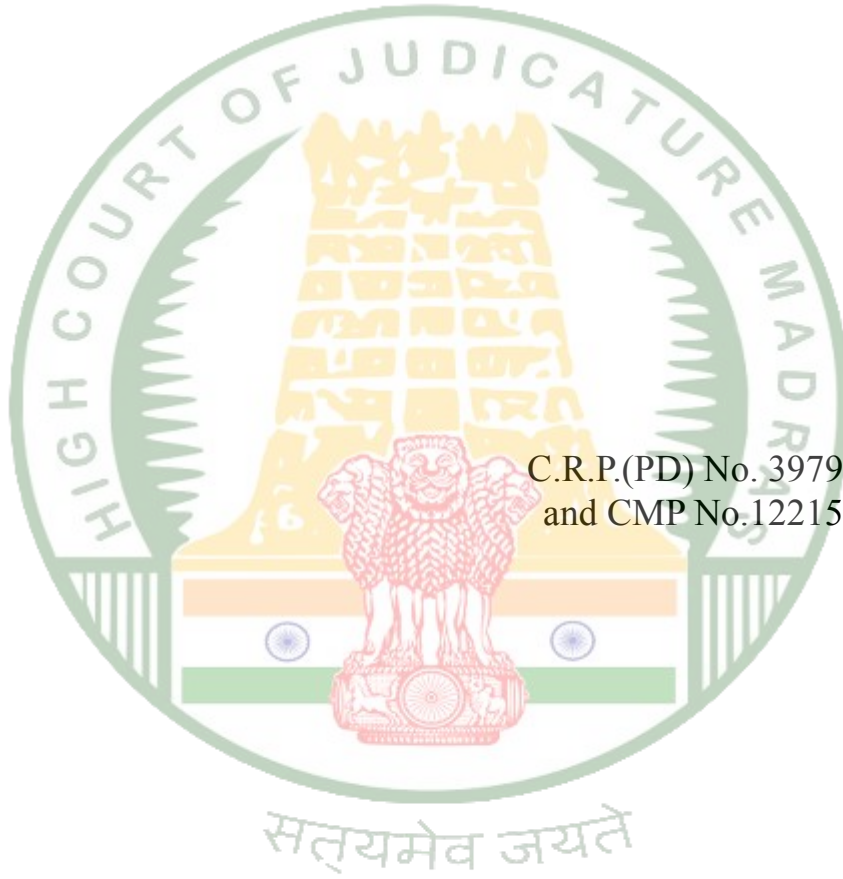
lpp
Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

To
The II Additional Sub Judge,
Villupuram.

WEB COPY

G.K.ILANTHIRAIYAN.J,

lpp



C.R.P.(PD) No. 3979 of 2018
and CMP No.12215 of 2018

WEB COPY

23.06.2021