



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.P.(MD)No.1705 of 2021

in

W.A.(MD)SR.No.8590 of 2021

- 1.The Government of Tamil Nadu,
Rep. by its Commissioner of Land Administration,
Chepauk, Chennai.
- 2.The District Revenue Officer,
Sivagangai District,
Sivagangai.
- 3.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.
- 4.The Tahsildar,
Karaikudi Taluk,
Sivagangai District.
- 5.The Village Administrative Officer,
Kanadukathan Village,
Karaikudi Taluk,
Sivagangai District.

... Petitioners/Appellants

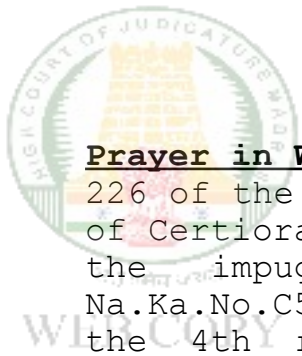
Vs.

V.Dhanalakshmiammal
rep. through its
Power of Attorney Holder,
V.Palaniappan

... Respondent/Respondent

Prayer in C.M.P.(MD)No.1705 of 2021: Miscellaneous Petition is filed under Section 5 of the Limitation Act to condone the delay of 2138 days in filing the above appeal against the order dated 17.04.2014 passed in W.P.(MD) No.13168 of 2012.

Prayer in W.A.(MD)SR.No.8590 of 2021: Writ Appeal is filed under Clause 15 of Letters Patent as against the order dated 17.04.2014 made in W.P.(MD)No.13168 of 2012.



Prayer in WP(MD). 13168/ 2012 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, by calling for the records pertaining to the impugned order passed by the 2nd respondent Memo Na.Ka.No.C5/46654/2010 dated 02.12.2011 quash the same and direct the 4th respondent to implement the orders of the Assistant Settlement Officer, Madurai in S.R.No.51 of 1993 dated 28.02.1994 by way of mutation of records maintained by the Tahsildar, Karaikudi.

For Petitioners : Mr.K.P.Narayanakumar
Special Government Pleader

O R D E R

The following is the averments made for condonation of delay:

"I submit that the order was passed on 17.04.2014. Order copy was received on 28.05.2014. The papers were send to higher officials for further action. As per directions of higher officials we have sought for opinion from the Government Advocate in July 2014 and thereafter, only in the month of December 2014 that the learned Government Advocate gave his legal opinion as it is not fit case for appeal. On receipt of said opinion we have forwarded the same to the higher officials and the same got misplaced and after hectic efforts same could be traced only in the month of June 2016 and thereafter as per directions of higher officials, once again we sought for second opinion from the Special Government Pleader in the month of July 2016 and the same was given to the effect that it is a fit case for appeal. On receipt of the legal opinion papers were send for administrative sanction and after getting administrative sanction, papers were handed over to the Special Government Pleader for preparing writ appeal and the same was made ready in the month of December 2016. Thereafter papers were send for administrative sanction. However, the papers were misplaced and the same could be traced only in the month of April 2017 and thereafter papers were handed over the clerk attached to the office Government Pleader in the month of June 2017. I submit that it is seems that he had misplaced the said bundle along with other bundles. On account of change of clerks dealing with filing works in the Government Pleader Office there was no proper follow up. It was informed that appeal was filed and the same is yet to be numbered and listed. In the review meeting, of Court cases, it was urged to trace the history of the case



and immediately we approached Government Pleader office and we enquired about the stage of writ appeal and thereafter we came to know that clerk attached to the office of Government Pleader office had not presented papers and further he had misplaced the bundle. I submit that on our request the said bundle was traced after hectic efforts in the month of 1st week of October 2020 and the same was represented with the registry. In the mean while there arose delay of 2138 days in filing. The delay in filing is due to the bonafide reasons afore stated and it is neither willful nor wanton. If the said delay was not condoned it will cause grave prejudice and irreparable hardship and heavy loss to the petitioners on the other hand no prejudice whatsoever would be caused to the respondent."

2.The delay is very huge-2138 days. It is not as if the petitioner is not aware of the orders passed. There is no proper explanation given. Thus, we do not find any reason to allow this petition.

3.Accordingly, this Miscellaneous Petition is dismissed. However, the question of law raised is left open. Consequently, the Writ Appeal in W.A.(MD)SR.No.8590 of 2021 is rejected in the SR stage itself. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RM

+1CC to THE SPECIAL GOVERNMENT PLEADER(SR-7855[F] dated 01/03/2021)

Order made in
C.M.P. (MD)No.1705 of 2021 in
W.A. (MD)SR.No.8590 of 2021
26.02.2021

SSS (CO)

SRS (15/03/2021) 3P : 2C