



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.P(MD)Nos.548 of 2019 and 5245 of 2020

in

W.A(MD).SR.No.44561 of 2018

and

W.A(MD).SR.No.33381 of 2020

C.M.P(MD)Nos.548 of 2019

P.Sundararajan

... Petitioner/Appellant/
2nd Respondent
Vs.

1. M.Manikandan

2. The Sub Registrar,
Thamaraipatti,
Office at Sittampatti,
Madurai North Taluk,
Madurai.

3. E.Sambamoorthy

....Respondents/Respondents
Petitioner and Respondents 1 & 3

Prayer in C.M.P(MD).No.548 of 2019 in W.A(MD).SR.No.44561 of 2018:

This petition is filed under Section 5 of the Limitation Act, to condone the delay of 611 days in preferring the above appeal.

Prayer in W.A(MD).SR.No.44561 of 2018:

Appeal under Clause 15 of the Letters Patent, against the order dated 20.01.2017, passed in W.P.(MD) No.10833 of 2011.

Prayer in WP(MD). 10833 of 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of WRIT OF CERTIORARIFIED MANDAMUS, to call for the records of the 1st Respondent in registering the impugned cancellation deed of sale in Document No.876/2000 dated 25-02-2000 executed by the 2nd Respondent and quash the same and further direct the 1st Respondent to make corresponding entry in the Book No.1 of his Office and pass orders on merits.



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For Petitioner : Mr.S.Ramesh
For Respondents : Mr.H.Arumugam for R1
Mr.K.Sathiya Singh,
Additional Government Pleader for R2
Mr.T.S.Mohamed Mohideen for R3

C.M.P(MD)No.5245 of 2020

E.Sambamoorthy

... Petitioner/Appellant/
3rd Respondent

Vs.

1. The Sub Registrar,
Thamaraipatti,
Office at Sittampatti,
Madurai North Taluk,
Madurai.

2. P.Sundararajan

3. M.Manikandan

....Respondents/Respondents/
Petitioner and Respondents 1 & 2

Prayer in C.M.P(MD).No.5245 of 2019 in W.A(MD).SR.No.33381 of 2020:

This petition is filed under Section 5 of the Limitation Act, to condone the delay of 1305 days in preferring the above appeal.

Prayer in W.A(MD).SR.No.33381 of 2020:

Appeal under Clause 15 of the Letters Patent, against the order dated 20.01.2017, passed in W.P.(MD) No.10833 of 2011.

Prayer in WP(MD). 10833 of 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of WRIT OF CERTIORARIFIED MANDAMUS, to call for the records of the 1st Respondent in registering the impugned cancellation deed of sale in Document No.876/2000 dated 25-02-2000 executed by the 2nd Respondent and quash the same and further direct the 1st Respondent to make corresponding entry in the Book No.1 of his Office and pass orders on merits.

For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondents : Mr.H.Arumugam for R3
Mr.K.Sathiya Singh,
Additional Government Pleader for R1
Mr.S.Ramesh for R2



COMMON ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

There is an inordinate delay in filing the writ appeals. One of the appeal which has been filed by E.Sambamoorthy, there is a delay of 1305 days and the other appeal filed by P.Sundararajan, there is a delay of 611 days.

2. We have perused the affidavits filed in support of both the condone delay petitions and find that the explanation is insufficient to condone the inordinate delay.

3. The learned Counsel appearing for the respondent-writ petitioner submitted that the order and direction issued in the writ petition has been complied with and the cancellation of the deed of sale has been set aside and the registered sale deed has been restored. In such circumstances, at this juncture, the Court is not justified in interfering with the order passed in the writ petition, since the order of works itself out. However, we are conscious of the fact that the issue pertains to the immovable property and the respondent-writ petitioner had filed a comprehensive suit for declaration and consequential relief in O.S.No.25 of 2019, on the file of Subordinate Court, Melur. In the said suit, the petitioner/appellant are the defendants. It appears that the plaintiff has already got into the box and examination in Chief is over.

4. In such circumstances, while dismissing these petitions for condonation of delay, it is observed that any finding given by the learned Writ Court to grant the relief sought for by the Writ petitioner will have no impact on the pending civil suit and the parties are at liberty to let oral and documentary evidence and the learned Subordinate Court shall decide the suit based on the oral and documentary evidence placed before it, uninfluenced by any observation made by the learned Writ Court.

5. With the above observations, these Civil Miscellaneous Petitions are dismissed. Consequently, the connected W.A(MD).SR.No.44561 of 2018 and W.A(MD).SR.No.33381 of 2020, are rejected at the S.R. stage itself. No costs.

Sd/-

Assistant Registrar(T & P)

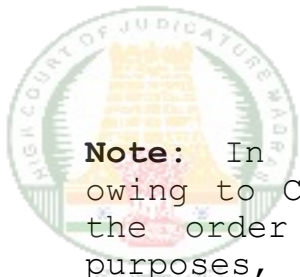
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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Sub Registrar,
Thamaraipatti,
Office at Sittampatti,
Madurai North Taluk,
Madurai.

Copy to
The Sub Assistant Registrar,
Writ AE Section,
Madurai Bench of Madras High Court, Madurai.(2 copies)

+1 CC to Mr.H.ARUMUGAM, Advocate SR.No. 18035
+1 CC to Mr.T.S.MOHAMED MOHIDHEEN, Advocate SR.No. 17812

C.M.P(MD)Nos.548 of 2019 and 5245 of 2020

in
W.A(MD) .SR.No.44561 of 2018 and W.A(MD) .SR.No.33381 of 2020
28.04.2021

SVN(CO)
TR(07.06.2021) 4P 5C