



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.03.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **N.SATHISH KUMAR**

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C.M.P (MD) .No.5982 of 2019

in

A.S. (MD) .No.SR.25541 of 2007

C.M.P. (MD) .No.5982 of 2019

The Land Acquisition Officer,
(Revenue Divisional Officer),
Padmanabhapuram.

: Petitioner / appellant

Vs.

1.S.Grace (Died)
2.The Divisional Engineer,
National Highways (Execution),
Tirunelveli.

3.Mary Vimala

4.T.Shibani

5.T.Shijo : Respondents

(Respondent Nos.3 to 5 brought on record as legal representatives of the deceased 1st respondent vide Court order dated 04.03.2016 made in M.P.(MD).No.1 to 3 of 2012 in M.P.(MD).Nos.1 of 2009 in A.S.(MD).SR.No.25541 of 2007)

Prayer in C.M.P(MD)No.5982 of 2019- Civil Miscellaneous Petition filed under Section 5 of Limitation Act, to condone the delay of 127 days in filing the above appeal.

A.S. (MD) .No.SR.25541 of 2007

The Land Acquisition Officer,
(Revenue Divisional Officer),
Padmanabhapuram.

: Petitioner / appellant

Vs.

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Prayer in A.S.(MD)No.SR.25541 of 2007- Appeal filed under Section 54 of the Land Acquisition Act against the judgment and decree of the Land Acquisition Tribunal cum Sub Court, Kuzhithurai, date 27.06.2006 made in L.A.O.P.No.22 of 1997.

For petitioner : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

COMMON JUDGMENT

C.M.P.((MD).No.5982 of 2019 has been filed to condone the delay of 127 days in filing the above appeal challenging the judgment and decree of the Land Acquisition Tribunal, which has enhanced the compensation per cent at the rate of Rs.40,000/-

2. An extent of 0.01.65 hectares were acquired as per the notification issued under Section 4 (1) of the Land Acquisition Act, dated 06.05.1992 for constructing bridge. The Land Acquisition Officer has fixed the compensation at the rate of Rs.3,825/- per cent. Besides, he has also fixed the value for standing coconut trees and the matter was referred under Section 18 (1) of the Land Acquisition Tribunal.

3. Taking note of the fact that the land is situated near the well developed area and taking note of the report of the Advocate Commissioner and also judgment of this Court reported in 2001 (1) MLJ 179, the Land Acquisition Tribunal has fixed the compensation at the rate of Rs.40,000/- per cent and also enhanced the compensation for the coconut trees also. As against which, the present appeal has been filed with delay of 127 days.

4. The reasons assigned in the application for the delay of 127 days are that the judgment of the trial Court enhancing the compensation is not brought to the notice of the petitioner and only on 08.12.2006, the applicant was informed of the judgment and decree passed by the Tribunal and immediately, on 09.12.2006 as per their instructions, an application for certified copies had been filed. All the certified copies were received only on 22.02.2007. Thereafter, they requested the learned Government Pleader for getting his legal opinion on 23.02.2007. However, the legal opinion was given on 04.04.2007 and entrusted the matter for filing an



appeal on 10.04.2007 and the appeal was preferred on 15.04.2007 and presented after vacation in the month of June.

5. The contention of the learned Additional Government Pleader is that there is a delay of 127 days in preferring the appeal. No doubt, the word 'sufficient cause' mentioned in Section 5 of the Limitation Act has to be received a liberal interpretation in order to give a parties to agitate their rights on merits. The Court is always liberal in approaching the delay applications when the reasons assigned for condoning the delay, are acceptable and it does not suffer from any suppression of material facts. Only when the reasons for delay appear to be normal and have not been pressed into service for the sake of application, this Court would be in favour of the litigant to condone such a delay. Otherwise, when the applicant came before this Court with false particulars coupled with suppression of material facts, even one day delay has to be strictly explained by the party.

6. It is the specific case of the applicant that only on 08.12.2006 they were informed about the judgment and decree of the Tribunal and immediately on 09.12.2006, the application for certified copies were filed and the certified copies were received only on 22.02.2007. On a perusal of certified copies which is obtained and filed before this Court, the reasons assigned in the application is nothing but a false one and pressed into service only for the sake of application. The allegation was that the copy application was filed only on 09.12.2006 at the first time is found to be false. In fact as per the endorsement found in the certified copies, the copy application was made only on 24.08.2006 and not on 09.12.2006 as pleaded in the application and the copies were made ready on 22.01.2007 and delivered to the applicant on 24.01.2007. Therefore, his contention is that the copy application was made on 09.12.2006 and it made ready only on 22.02.2007 is nothing but a false statement made by the applicant.

7. When the reasons shrouded with suppression of material facts and false particulars, this Court is not inclined to condone such delay, even the delay may be very small when the parties approached before the Court with false particulars cannot seek for condonation of delay. The other reasons, that there is an administrative delay in getting an opinion for filing an appeal, cannot be condoned. What is pitted against the ordinary person is also pitted against the Government and there cannot be any special indulgence to be shown to the appellant herein. Since the applications for condoning the delay are made with false particulars, this Court is not inclined to condone the delay of 127 days.



8. Accordingly, C.M.P.(MD).No.5982 of 2019 is dismissed.
No costs. Consequently, AS.SR.(MD).No.25541 of 2007 is rejected at
the SR stage itself.

Sd/-

Assistant Registrar (AE)

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/ /2021

Sub Assistant Registrar(CS)

TO

The Divisional Engineer,
National Highways (Execution),
Tirunelveli.

+1CC to SPL GP,SR.No.14401 dated 30.03.2021

C.M.P.(MD).No.5982 of 2019
in
A.S.No.(MD).SR.25541 of 2007
29.03.2021

MJ(CO)

KB(23.04.2021) 4P 3C