



C.R.P.No.484 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2022

CORAM

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

C.R.P.No.484 of 2016
and C.M.P.No.2498 of 2016

The Executive Officer,
Wellington Cantonment Board,
Wellington, Nilgiris.

.. Petitioner

Vs.

1. Gowri
2. R.Mohan
3. R.Parthiban
4. R.Yuvaraj
5. R.Sunderrajan
6. Union of India,
Ministry of Defence,
represented by its
Secretary, New Delhi.

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 23.11.2015 made in I.A.No.123 of 2012 in C.M.A.C.F.R.No.3432 of 2012 passed by the District Judge, Udagamandalam, the Appellate Authority under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.



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For Petitioner : Mr.M.Vijayan
for M/s King and Partridge
For Respondents
R1 : Died
R2 to R5 : No appearance

ORDER

This Civil Revision Petition has been filed as against the fair and final order passed in I.A.No.123 of 2012 in C.M.A.C.F.R.No.3432 of 2012 dated 23.11.2015, on the file of the learned District Judge, Udagamandalam, thereby allowing the petition to condone the delay of 4687 days in filing the Appeal Suit.

2. The petitioner had entered into an agreement for lease with one T.S.Rangarajulu on 27.06.1968 for a period of five years. The lease period had expired in the year 1973. The subject property was an agricultural land ad-measuring 37 cents comprised in GLRS number 552 of 315. The said property should not be used otherwise than for agricultural purposes and in accordance with the provisions of Section 144 of Cantonments Act, 1924. It is also seen that not to plant trees, erect buildings, remove any sand, mineral etc, without the written consent of the Cantonment Board.



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3. However, after expiry of the lease period, the tenant failed to surrender vacant possession of the said land. Therefore, the petitioner initiated proceedings and issued notice dated 25.11.1999. Accordingly, the petitioner issued show cause notice as to why the eviction should not be made in accordance with the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. After appearance, enquiry was conducted and by an order dated 31.12.1999, it was ordered to evict the lessee and all persons in occupation of the said property, within a period of 15 days. Even after expiry of 15 days, the tenant failed to vacate the premises for nearly 13 years. Therefore, the petitioner invoked the power under Section 5C of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and passed an order of eviction dated 15.11.2012. In the meanwhile, the said T.S.Rangarajulu died and his legal heirs filed an appeal as against the said order before the District Court, Nilgiris in CFR.No.3432 of 2012 by invoking Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 with a delay of 4687 days in filing the Appeal Suit in I.A.No.123 of 2012. The Appellate Court mechanically allowed the said application to condone the delay of 4687 days in filing the Appeal Suit for the reason that the respondents 1



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to 5 herein may be given one more opportunity to put forth their case on payment of cost of Rs.4,687/-. After allowing the said application, the Appellate Court numbered the appeal in C.M.A.No.18 of 2015.

4. The learned counsel for the petitioner would submit that as per the provisions under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the respondent can very well file an appeal within a period of 12 days from the date of the order. However, the Appellate Court may entertain the appeal in exceptional cases after the expiry of the said period, if he is satisfied for the reasons to be recorded in writing that there was compelling reasons which prevented a person from filing the appeal in time.

5. A perusal of the affidavit revealed that there was no compelling reasons to file the appeal after a period of 4687 days. That apart, a perusal of records revealed that already the legal heirs i.e, the respondents 1 to 5 herein handed over the unauthorized occupied possession bearing GLRS.No.552 of 315 of B-4 Agri lease on 15.11.2012. Now, the respondents 1 to 5 are not in possession of the



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subject property. Therefore, the Appellate Court, without considering the facts and circumstances, mechanically allowed the petition to condone the delay of huge number of days.

6. Hence, the order passed by the Appellate Court cannot be sustained and it is liable to be set aside. Accordingly, the fair and decreetal order dated 23.11.2015 made in I.A.No.123 of 2012 in C.M.A.C.F.R.No.3432 of 2012 passed by the learned District Judge, Udagamandalam, is hereby set aside.

7. Accordingly, this Civil Revision Petition is allowed. Consequently connected miscellaneous petition is closed. No costs.

05.12.2022

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

mn

To

The District Judge, Udagamandalam.



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