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CRP.No.2175 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2022

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 2175 of 2017

and

CMP.No.10455 of 2017

1. C. Murugesan,
2. C. Chinnadurai

... Petitioners

Versus

1. The State of Tamil Nadu,
Rep. by the District Forest Officer,
Attur.

Chittambalam (Died)

2. Amutha
3. Alagarasi
4. Kalaiarasi,
5. Murugayee,
6. Rajaram,
7. Kavitha,
8. Vanitha,
9. Rajasekar

...Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated



18.03.2015 made in I.A.No.44 of 2012 in unnumbered C.M.A. No. of 2012 on the file of the Principal District Judge, Salem.

For Petitioners : Mr. R. Marudhachalamurthy

For Respondent-1 : Mr. B. Tamil Nidhi
(Additional Govt. Pleader).

For Respondents 2 to 9 : Dispensed with

ORDER

This Civil Revision Petition has been filed by the petitioners seeking to set aside the fair and decretal order dated 18.03.2015 made in I.A.No.44 of 2012 in unnumbered C.M.A. of 2012 on the file of the Principal District Judge, Salem.

2. The case of the petitioners is that F.S.O. No.857 of 2002 on the file of the Forest Settlement Officer, Attur was ordered on 11.09.2002 in favour of the petitioners herein. Being not satisfied with the aforesaid order, the 1st respondent has filed an appeal unnumbered CMA of 2012. Pending the unnumbered appeal, the 1st respondent has filed I.A.No.44 of



2012 seeking for condonation of delay of 3386 days in filing the aforesaid appeal. Considering both side hearings, the condonation of delay application was allowed by order dated 18.03.2015. Being aggrieved by the aforesaid order, the petitioners have filed the present Civil Revision Petition to set aside the same.

3. The learned counsel for the petitioners would submit that the 1st respondent herein has not established reason for the inordinate delay of 10 years and even then the Trial Court has in a lenient manner allowed the Section 5 Limitation Act application. The reasons assigned by the 1st respondent herein in his application are not acceptable and he put the blame on his own department and stating of administrative reasons for the delay of filing of appeal would not acceptable and in such circumstances condoning inordinate delay of 3386 days by the Trial Court are unsustainable and liable to be set aside. Hence, he seeks to set aside the order dated 18.03.2015 passed in I.A. No.44 of 2012 passed by the Trial Court.



4.The learned Additional Government Pleader appearing for the 1st respondent would submit after producing the order dated 07.10.2021 passed by this Court in the similar matter in CRP (NPD) Nos.4845 & 4846 of 2012 that though the order was passed on 11.09.2002, the Forrest Settlement Officer concerned had not supplied the copy of the order despite various letters have been sent to him requesting to issue certified copy of the aforesaid order. However, the certified copies of order was received only on 13.10.2011. Thereafter, the appeal has been filed on 08.11.2011 within the prescribed time as the period taken by the Forest Settlement officer to issue the certified copies is to be excluded while computing the period of limitation. However, in order to avoid any technical objections on the question of limitation, Section 5 of Limitation Act application was filed to condone the delay of 3386 days in filing the application. By virtue of satisfaction of the reasons stated by the 1st respondent, the same was allowed by order dated 18.03.2015 after considering the oral and documentary evidence and submissions of the learned counsel for both parties. Pursuant to allowing the condonation of delay, the Civil Miscellaneous Appeal is numbered and the same is pending for disposal.



6. Heard the learned counsel for the petitioners and the learned Additional Government Pleader appearing for the 1st respondent as well as perused the materials available on record.

7. On a perusal of the records, it is seen that based on long possession of the ancestors of the petitioners in the suit property, the Forest Settlement Officer has allowed FSO No.857 of 2002 by order dated 11.09.2002. In the similar cases, in filing of the appeal against the aforesaid order, condonation of delay applications were allowed by this Court in CRP (NPD) Nos.4825 and 4846 of 2012 by order dated 07.10.2021 which are produced by the learned Government Advocate before this Court after taking note of the order passed by this Court in batch of Civil Revision Petitions involving similar issue and circumstances, viz., in CRP (NPD) Nos.312, 312 etc of 2014 dated 13.06.2019. Further, since the petitioners are claiming the property for having long possession and the same is denied by the 1st respondent as it is reserved lands, which belongs to Government, the matter requires to be adjudicated to resolve the issue arose between the parties. Hence, this Court is not inclined to interfere with the order dated 18.03.2015 passed



by the Trial Court. As the Civil Miscellaneous Petition is pending before the Trial Court from the year 2012, the Trial Court is hereby directed to dispose of the same within a period of Twelve months from the date of receipt of copy of this order.

8. With the aforesaid directions, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.09.2022

Lbm

Index : Yes/No

Speaking Order : Yes/No



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Copy To:

1. The Principal District Judge, Salem.
2. The Section Officer, V.R.Section
High Court, Madras.



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T.V.THAMILSELVI, J.

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