



C.R.P.(PD)No.1560 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.1560 of 2021

A.Eswaramoorthi

.. Petitioner

Vs.

1.The Management,
No.10606, Nedungulam Primary Agricultural
Co -operative Credit Society Limited,
Nedungulam Village,
Edappadi Taluk,
Salem District.

2.S.Ramasamy

3.Ponnappan @ Sellappan

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, prays to set aside the order and decree passed in REA.No.1 of 2020 in Unnumbered REP, dated 04.02.2021 on the file of Principal District Court, Salem.

For Petitioner : Mr.M.S.Palaniswamy



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For Respondent 1 : Mr.V.Ravichandran

For Respondent 2 : No Appearance

For Respondent 3 : Mr.N.Manokaran

ORDER

This civil revision petition arises against the dismissal of REA.No.1 of 2020 in unnumbered execution petition on the file of the learned Principal District Judge, Salem. The petitioner before me purchased the property in a sale under the Co-operative Societies Act. He purchased the property on 29.12.2014. Sale certificate was issued to him on 24.04.2015 and subsequently, the same was registered. In terms of Co-operative Societies Act, the petitioner moved an execution petition in order to put the sale certificate into effect. That petition was presented on 12.09.2015 and it was returned for certain compliances on 04.01.2016 and represented only in June 2020. There was a delay of 1586 days in representing the same.



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2. This was resisted by the contesting 3rd respondent before the Court below on the ground that absolutely no reasons have been given in the same.

3. The learned Principal District Judge was convinced with the submissions that was made and he dismissed the petition. Against which, the present revision petition has been filed. The learned Judge had taken a view that there was quoting of wrong provision of law and he did not find everyday's delay had been explained. On these two grounds, he dismissed the petition.

4. The consideration for condoning delay in representation is fundamentally different, at least in this Court, as against treatment of a similar petition for condone delay in filing. An application under Section 148 is treated more liberally than an application under Section 5 of Limitation Act. This position of law has been laid down by a Division Bench of this Court *Y.Cusbar Vs K.Subbarayan 1993 TLNJ 375*. The Division Bench held that condonation of delay in representation is



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essentially between the Court and the party. This position of law has been followed by this Court in D.Muralidharan Vs Chinappan(died) C.R.P.(PD).No.323 of 2005 dated 06.06.2007. Furthermore, an other learned Single Judge of this Court has held that condone delay in representation is not a judicial order but administrative one in ***Bhuvaneswari v. R. Elumalai 2002 (3) CTC 22***. Such being the situation of law, the expectation of the learned Principal District Judge that an application under Section 148 of CPC should be treated on par with Section 5 of Limitation Act is erroneous and requires interference. Consequently, the delay of 1586 days of representing the papers is condoned. However, I cannot be insensitive to the fact that on account of the delay, some prejudice has been caused to the contesting 3rd respondent.

5. The delay is condoned on the condition that the petitioner pays to 3rd respondent a sum of Rs.10,000/- within a period of four weeks from today. It is made clear that in case the amount is not paid, the civil



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revision petition will stand dismissed.

6. On the production of proof of payment, the learned Principal District Judge is requested to number the execution petition if it is, otherwise in order.

7. With the above observations, this civil revision petition is allowed. No costs.

13.09.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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To

The Principal District Court,
Salem.

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V.LAKSHMINARAYANAN,J.

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