



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction



Friday, the Third day of February Two Thousand and Twenty Three

PRESENT

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The Hon`ble Mr.Justice R.VIJAYAKUMAR

CMP(MD) . Nos.9323 to 9326 of 2019
in
CRP(MD)Nos.38 to 41 of 2006

Special Tahsildar (Land Acquisition),
Maruthanathi Reservoir Scheme, Dindigul.

... Petitioner/Review Petitioner in all
CMP's

-Vs-

- 1 Rajammal
- 2 Nataraja Perumal,
- 3 Pavalamani,
- 4 Vijayarajan,

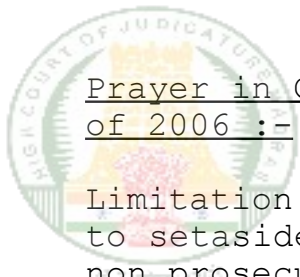
... Respondent / Respondent in
CMP(MD) . Nos.9323 of 2019 in
CRP(MD)Nos.38 of 2006

T.Rajendran Nadar,
rep. through his power agent
S.N.P.Thilagamoorthy

...Respondent in CMP.No.9324/2019 in
CRP.No.39/2006

1. M.P. Janardhanam
2. M.S.N.P.Thilagamoorthy
3. Uma Rani.
4. Jeyasankar
5. Jeyanthi
6. Jeyarani

...Respondent / Respondent in
CMP(MD) . Nos.9325 & 9326 of 2019 in
CRP(MD)Nos.40 & 41 of 2006



Prayer in CMP(MD). Nos.9323 to 9326 of 2019 in CRP(MD)Nos.38 to 41 of 2006 :-

These Civil Miscellaneous Petitions filed U/s. 5 of Limitation Act to condone the 891 delay to file restore petition to set aside the above said dismissal order dated 27.02.2017 due to non-prosecution in CRP(MD)Nos.38 to 41 2006 and restore the same.

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Prayer in CRP(MD)Nos.38 to 41 of 2006 :-

These Civil Revision Petitions filed Under section 115 of C.P.C., against the Judgment and Decree dated.19.01.2005 in E.P.Nos, 322, 298, 33 and 34/2003 in L.A.O.P.Nos.102/1978, 108/1977, 109/1977, and 43/1979 respectively on the file of the Principal Subordinate Court, Dindigul, Dindigul District.

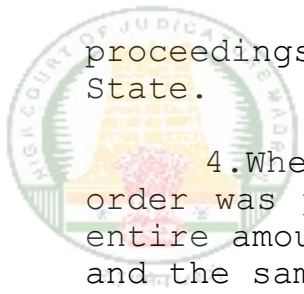
ORDER:-

These Civil Miscellaneous Petitions coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru./Ms. Mr.C.Baskaran, Government Advocate on behalf of the Petitioner in all CMP's and of Thiru./Ms. Mr.V.R.Shanmuganathan, Advocate for the Respondents 1 and 2 in CMP(MD). No.9323 of 2019 in CRP(MD)No.38 of 2006 and Respondents not appearing in CMP(MD). Nos.9324 to 9326 of 2019 in CRP(MD)Nos.39 to 41 of 2006, this Court made the following order:

"The above civil miscellaneous applications have been filed to condone the delay of 891 days in restoring C.R.P.(NPD).(MD). Nos.38 to 41 of 2006.

2.The first respondent in all the revision petitions are the claimants whose lands were acquired by the State for the construction of Marutha Nathi Reservoir by way of 4(1) Notification in the year 1973. An award was passed by the Land Acquisition Tribunal in the year 1977. The said award was challenged by the State before the High Court in the First Appeal. In the said First Appeal, the award of the Acquisition Tribunal was reduced and a modified award was passed by this Court on 27.09.1991. This reduced award was challenged by the claimants before the Hon'ble Apex Court by way of Special Leave Petition. The Hon'ble Supreme Court was pleased to partly allow the Special Leave Petition on 06.02.2002 enhancing the award amount.

3.In order to execute the modified award passed by the Hon'ble Apex Court, the claimants have filed the Execution Petition before the Acquisition Tribunal. The land Acquisition Officer has filed a counter in all these Execution proceedings contending that they are liable to pay interest only to the value of the land acquired by the Government and not liable to pay any interest for the amount awarded under any other head. This argument of the Land Acquisition Officer was rejected by the Execution Court and it proceeded to allow the Execution Petition and directed to attach the properties of the Special Tahsildhar, Land Acquisition, Maruthanathi Reservoir Scheme. Challenging the order of attachment passed in the execution



proceedings, the present revision petitions have been filed in the State.



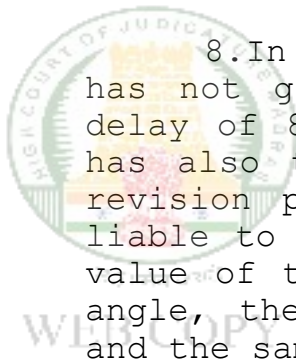
4. When the revisions were admitted for hearing, an interim order was passed on 19.12.2006 imposing a condition to deposit the entire amount. However, the said interim order was not complied with and the same got vacated automatically.

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5. The batch of four revision petitions were being listed on various dates before this Court for final hearing. These revision petitions were listed on 22.11.2016 and later on 12.01.2017. Since there was no representation on these two occasions, the matter was listed under the caption 'For Dismissal' on 22.02.2017. Even on the said date, there was no representation on the side of the revision petitioner. This Court was pleased to grant another opportunity to the revision petitioner and it was adjourned to 27.02.2017. Even on the said date, there was no representation on the side of the revision petitioner. Therefore, this Court was constrained to dismiss all the revision petitions for default on 27.02.2017. The present applications have been filed to condone the delay of 891 days in filing an application to restore the said revision petitions that were dismissed for default on 27.02.2017.

6. A perusal of the affidavit indicates that on 27.02.2017, the counsel representing the revision petitioner was held up before another Court and hence, he could not appear before the concerned Court which resulted in dismissal of the revision petitions. Therefore, it is clear that the listing of the said matter was known to the counsel appearing for the revision petitioner and the matter has been dismissed for default on the same day. The only explanation that is offered by the revision petitioner for the delay is that, the post of clerical staff who was taking care of the above civil miscellaneous petitions was vacant and hence, an application to restore the revision petitions could not be filed immediately. Therefore, it is clear that the revision petitions have been listed on various dates right from 22.11.2016 onwards till 27.02.2017 on the date when it was dismissed for default. On all occasions, there was no representation on the side of the revision petitioners. No proper explanation has been afforded to condone the delay of 891 days, even though they were aware of the dismissal of the revision petitions on the same day itself. That apart, the vacancy for the post of Assistant in the Government Pleader Office can never be considered to be a reasonable cause for delay in filing an application to restore the revision petitions.

7. Considering the fact that the lands have been acquired in the year 1973 and the award proceedings have culminated before the Hon'ble Supreme Court in the year 2002, the revision petitioners cannot be permitted to prolong the litigation by leaving the revision petitions to be dismissed for default and attempting to restore the said revision petitions after a delay of more than 2 years especially on the ground of vacancy of some post in the Government Pleader Office.



8. In view of the above said reasons, the revision petitioner has not given any reasonable or acceptable cause to condone the delay of 891 days in restoring the revision petitions. This Court has also taken into consideration that the defence raised by the revision petitioner in the execution petitions that they are not liable to pay any interest on other heads except under the head of value of the land is not legally sustainable. Considering from any angle, the condone delay applications are not legally sustainable and the same stand dismissed.

9. Accordingly, these civil miscellaneous applications are dismissed. No costs."

Sd/-

Assistant Registrar (CS-II)

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/02/2023

Sub Assistant Registrar (CS)

MSA

TO

1. The Principal Subordinate Court, Dindigul, Dindigul District.
2. The Special Tahsildar (Land Acquisition),
Maruthanathi Reservoir Scheme, Dindigul.

Copy to:

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai.

ORDER DATED : 03/02/2023

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ORDER

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CMP (MD) . Nos. 9323 to 9326 of 2019
in

CRP (MD) Nos. 38 to 41 of 2006

SI (22.02.2023) 4P/ 4C