



C.M.P(MD)No.3972 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Thirty First day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

C.M.P(MD)No.3972 of 2023
in
S.A(MD)SR.No.37786 of 2022

TAMIL NADU GOVERNMENT
ADIDHRAVIDAR WELFARE DEPARTMENT OFFICER,
DINDIGUL.

... PETITIONER/PETITIONER

Vs

RANJITHAM

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 2785 days in filing the above second appeal filed as against the order dated 28-11-2014 in C.M.A.No.3 of 1998 on the file of the Principal Sub Court, Dindigul and thus render justice.

PRAYER IN S.A(MD)SR.No.37786 of 2022:

To set aside the Judgment and Decree dated 28.11.2014 passed in C.M.A.No.3 of 1998 on the file of the Principal Sub Court, Dindigul modifying the Proceedings dtd 31.12.1997 passed in R.O.C.No.3512/97/A on the file of the Special Tahsildhar, Adidhravidar welfare Department, Unit 1, Dindigul and allow the appeal.



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ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.GANDHIRAJ, Special Government Pleader for the petitioner and of M/S.G.GOMATHI SANKAR, Advocate on behalf of the Respondent the court made the following order:-

Reserved on : 06.07.2023

Pronounced on : 31.07.2023

This Civil Miscellaneous Petition is filed to condone the delay of 2785 days in filing the Second Appeal against the order dated 28.11.2014 made in C.M.A.No.3 of 1998 on the file of the Principal Sub Court, Dindigul.

2. The petitioner has stated reasons in the accompanying affidavit filed along with the Civil Miscellaneous Petition are follows:

The First Appellate Court has passed the order in C.M.A.No.3 of 1998 on 28.11.2014 and the same was served on the petitioner's office on 22.12.2017. In this case the lands were acquired under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. But the First Appellate Court has fixed and arrived the compensation as per the Tamil Nadu Land Acquisition Act, 1984. This was brought to the petitioner by higher officials belatedly. Further, after passing order, the petitioner's department was entrusted with the voters verification for the 2016



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Assembly Election, 2018 Parliamentary Elections, 2021 Assembly Election and 2018 Local Body Election and Electoral Roll Updation. Further, Gaja cyclone was also hit in many areas in Dindigul district. In the year 2020 Covid-19 spread and the petitioner was giving treatment to the affected people. The application of wrong Act was brought to the notice to the petitioner by higher officials. Hence, there is a delay of 2785 days in preferring the Second Appeal.

3. The respondent filed a counter and objected the petition and stated as follows:

The petitioner acquired 2.93.5 Hectares of land belonged to the respondent for issuing free patta to the Adi Dravidar peoples. The petitioner fixed compensation of Rs.2,00,085/-. The respondent preferred an appeal in C.M.A.No.3 of 1998 before the Sub Court, Dindigul. The Sub Court, Dindigul passed the order enhancing compensation at Rs.1,000/- per cent and the respondent is entitled to get all benefits under Tamil Nadu Land Acquisition Act. The petitioner has not taken any steps to deposit the compensation amount and hence, the respondent filed the Execution Petition in E.P.No.236 of 2015 for attachment of properties of the petitioner and the



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Court passed the attachment order. Even then the petitioner has not deposited the amount. The respondent is an agriculturist and her family is depending upon the agricultural income. Though the land was acquired in the year 1997, after passing 26 years, the petitioner did not come forward to deposit the compensation amount. The respondent filed the execution proceedings in the year 2015 and after lapse of 7 years, the petitioner has filed the present Second Appeal against the order passed in C.M.A.No.3 of 1998 dated 28.11.2014, with the huge delay of 2875 days. If the petitioner comes forward to deposit the entire compensation with interest the delay may be condoned, otherwise the respondent will be put to irreparable loss.

4. The learned counsel for the petitioner has submitted that the First Appellate Court has awarded compensation under the Tamil Nadu Land Acquisition Act for the lands acquired under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. The petitioner has challenged only the quantum of solatium at 30% and subsequent interest at 12% p.a. ordered by the First Appellate Court as per the Land Acquisition Act, 1894. As per the section 7 of the Tamil Nadu Acquisition of Land for Adi Dravidar Welfare Scheme Act, 1978, for solatium 15% only has to be taken into account and further, as per the Section 12 of the Act, subsequent interest



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can be ordered only at 6%. The petitioner has not challenged the enhanced compensation for the acquired land and the petitioner only raised dispute regarding solatium and interest and it was belatedly brought to the notice of the petitioner by the higher officials. The public money would not be given under wrong quote of the Act by the First Appellate Court. Therefore the delay of 2785 days has to be condoned. When important questions of law are involved, the delay might be condoned by imposing exemplary costs. In support of his arguments, the learned counsel for the petitioner has relied on the citations as follows:

1. (2009) 13 Supreme Court Cases 192 (State of Karnataka Vs. Y.Moideen Kunhi (Dead) by LRs and Ors.), wherein it is held in paragraph Nos.17, 20 and 23 as follows:

“17. 11.It was noted that adoption of strict standard of proof sometimes fail to protract public justice, and it would result in public mischief by skilful management of delay in the process of filing an appeal”.

20.Many matters concerning the State Government and the Central Government are delayed either by the nature of bureaucratic process or by



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deliberate manipulation of the same by taking advantage of loopholes in the conduct of litigation. Several instances have come to the notice of this Court whereas as noted above appeals have been filed where the revenue involved runs to several crores of rupees. It is true that occasionally delay occurs which is inexplicable in normal circumstances.

23. Keeping in view the importance of questions of law, which are involved we are inclined to condone the delay subject to payment of exemplary costs...”.

2. 2020 (3) MWN (Civil) 794 (Chinna Manthadi (Died) and Ors. Vs. N.Rosi Manthadi (Died), wherein the Hon’ble Supreme Court has held in paragraph No.7 as follows:

“7.Even though the appellant appears not to be as vigilant as he ought to have been, yet his conduct does not, on the whole, warrant to castigate him as an irresponsible litigant. He should have been more vigilant but on his failure to adopt such extra vigilance



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should not have been made a ground for ousting him from the litigation with respect to the property, concededly to be valuable.....”

5. Per contra, the learned counsel for the respondent has vehemently contended that the land of the respondent measuring 1.80 acre was acquired by the petitioner in the year 1997. Since the compensation given by the petitioner was meagre, the respondent filed the appeal in C.M.A.No.3 of 1998 before the Sub Court, Dindigul and the compensation was enhanced as Rs.1,000/- per cent. Even 26 years lapsed the petitioner has not paid the compensation amount. The respondent is an agriculturist and her family depends upon the agricultural income. Even in the executing proceedings in the year 2015, the petitioner's official gave an undertaking that they would pay the compensation within three months, and so the attachment made in execution proceeding kept abeyance. The petitioner has not assigned valid reason for the delay of 2285 days and they have no merit in the case. Delay occurred on account of lapses, negligence and dereliction of duty on the part of the government officials cannot be allowed. This Court may consider the petition, in case the petitioner deposits entire amount with interest. In support his argument, the learned counsel for the respondent has relied on citation reported in 2023 (1) MadWN (Civil) 561 (The Superintending Engineer, The Tamil Nadu Electricity Board and Ors Vs. Prabhakar



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and Ors.), wherein it is held in paragraph No.10 as follows:

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“10. At the same time, the discretion must be exercised in any arbitrary or vague or fanciful manner, but must be exercised like any other judicial discretion with vigilance and circumspection. Delay cannot be condoned as a matter of judicial generosity. Where delay could have been avoided by due care and caution, the Court may not exercise the discretion to condone the delay” .

6. Heard both side and perused the records in this Civil Miscellaneous Petition.

7. It is clear that the respondent's land was acquired under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. The respondent preferred the appeal in C.M.A.No.3 of 1998 before the Sub Court, Dindigul challenging the compensation awarded by the Special Tahsildar, Adi Dravidar Welfare Unit.I, Dindigul under Award No.12/97-98 dated 31.12.1997. The First Appellate Court has enhanced the compensation at Rs.1,000/- per cent and also awarded 30% Solatium and 12% interest as per provisions of the Land Acquisition Act. It is the case of the



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petitioner that due to several important administrative works, the fact of solatium and subsequent interest as per the provision of Land Acquisition Act in stead of Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, was brought to the notice of the petitioner belately. The petitioner wants to question about the solatium and interest and not about the compensation. The respondent has not raised any dispute about the said fact. It is held by the Hon'ble Supreme Court in the citation produced by the petitioner that in view of the importance of questions of law involved, the delay is condoned subject to the payment of exemplary cost.

8. Therefore, this Court is of the opinion that the petitioner has prima-facie in raising the question of law in the Second Appeal and at the same time the inconvenience caused to the respondent has to be compensated with exemplary manner. The petitioner is also ready to pay exemplary cost. Considering the above facts and circumstances, the delay is to be condoned by imposing certain condition to meet out the inconvenience caused to the respondent.

9. In the result, this Civil Miscellaneous Petition is allowed on condition that the petitioner shall pay a cost of Rs.25,000/- (Rupees Twenty Five Thousand only) to the respondent within a period of four weeks from the date of receipt of a copy of this



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order, failing which this Civil Miscellaneous Petition stands dismissed automatically
without any further reference to this Court.

sd/-
31/07/2023

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/08/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsd

TO
THE PRINCIPAL SUB ORDINATE JUDGE , DINDIGUL

+1. C.C. to M/S.G.GOMATHI SANKAR, Advocate SR.No.11536

ORDER IN
C.M.P(MD)No.3972 of 2023
in
S.A(MD)SR.No.37786 of 2022
Date :31/07/2023

RK /VRS(07/08/2023) 10P /3 C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023