



C.R.P(MD)No.1488 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.07.2023**

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.1488 of 2018

and

C.M.P(MD)No.6466 of 2018

Vathsala
W/o.Thirunavukkarasu
Through her Father/Power Agent,
Panchanathan
S/o.Muthuswamy,
No.97/36, Pettai Nanayakara Street,
Kumbakonam.

...Petitioner/Respondent/
Respondent

Vs.

1.The Executive Engineer,
(Operation and Maintenance),
North, TNEB
Office Address: Sri Nagar Colony,
Kumbakonam.

2.The Assistant Executive Engineer,
(Operation and Maintenance)
South, TNEB,
Office Address: Sri Nagar Colony,
Kumbakonam.

...Respondents/Petitioners/
Appellants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 09.04.2018 passed in I.A.No.113 of 2017 in unnumbered A.S.No. of 2017 on the file of the Principal Sub Court, Kumbakonam.



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For Petitioner : Mr.M.P.Senthil

For Respondents : No Appearance

COMMON ORDER

This civil revision petition has been filed against the order passed by the Principal Sub Court, Kumbakonam in I.A.No.113 of 2017 in unnumbered A.S.No. of 2017 dated 09.04.2018.

2. The revision petitioner is the respondent in I.A.No.113 of 2017. It appears that the revision petitioner has filed a suit in O.S.No.408 of 2010 against the respondents herein for relief of mandatory injunction to remove the transformer erected in the suit property, which was ultimately decreed by the Principal District Munsif Court, Kumbakonam vide decree dated 18.11.2016. Against which, the respondents/electricity board did not prefer an appeal in time and there was a delay of 250 days in filing the appeal.

3. The respondents herein have filed an application to condone the delay of 250 days in filing the appeal against the judgement and decree dated 18.11.2016. The reason assigned by the electricity board for the delay is that they need to get approval from the Central Legal



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Department, Chennai. Though the petitioner/plaintiff herein has strongly objected to the said application, the trial Court allowed the application on 09.04.2018 on the ground that the respondents herein have no personal animosity against the petitioner, and found that the reason assigned by the electricity board is sufficient cause for condoning the delay on a condition that the respondents herein have to pay Rs.400/- to the petitioner.

4. Aggrieved by the order of the Trial Court, the petitioner herein has come up with this civil revision petition, on the ground that the reason assigned by the respondent to condone the delay is not sufficient cause.

5. It is pertinent to note that the decision of the Hon'ble Supreme Court in the case of ***Balakrishnan Vs Krishnamoorthy*** reported in ***AIR 1998 SC 3222***, the Hon'ble Supreme Court clearly laid down a ratio that, when the trial Court has exercised jurisdiction affirmatively in condoning the delay, the revisional Court should be slow in interfering with the order of the trial Court, unless there exist sound reason.



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6. Here, on perusal of the record, the trial Court after considering all the aspects found that the reason assigned by the respondents herein is the sufficient cause. Further, the trial Court found that when the petitioner came up with the request to have an order on merits, nothing wrong in condoning the delay. The Trial Court has also found that the respondents herein have no personal animosity against the petitioner. Therefore, the order of the trial Court has no manifest error and the trial Court has appreciated the material in its right perspective. Hence, there is no ground for interfering with the order of the Trial Court.

7. In the result, the civil revision petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

06.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The Principal Sub Court,
Kumbakonam

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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