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C.R.P.(MD)No.1966 of 2018



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.11.2023

Pronounced on : 17.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **P.B. BALAJI**

C.R.P(MD)No.1966 of 2018

and

C.M.P(MD)No.8659 of 2018

S.Palanisamy

... Petitioner

Vs.

1.S.Nagajothi

2.S.Babu Sridhar

3.Deepasri

4.S.Sathish Kumar

... Respondents

PRAYER : Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the order dated 31.07.2018 passed in A.P.I.A.No.5 of 2004 in A.P.No.(un numbered) of 2004, on the file of the Special Deputy Collector, Revenue Court, Madurai, by allowing this Civil Revision Petition and to grant such other reliefs.

For Petitioner : Mrs.P.Jesi Jeeva Priya

For Respondents : M/s. Vidya for
Mr.M.Senthil Kumar



ORDER

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This Civil Revision Petition is filed to set aside the order dated 31.07.2018 passed in A.P.I.A.No.5 of 2004 in A.P.No.(un numbered) of 2004, on the file of the Special Deputy Collector, Revenue Court, Madurai.

2. The revision petitioner has preferred the above revision, aggrieved by the order of the Special Deputy Collector, Revenue Court, Madurai, condoning the delay of 1795 days in filing the appeal. Originally, the order was passed in T.R.No.26 of 1987. The said order remained unchallenged. The revision petitioner issued a notice on 09.12.2002 clearly referring to the order in T.R.No.26 of 1987. The said notice was received by the respondent on 11.12.2002. Thereafter an application came to be filed seeking condone the delay of 1795 days in filing the appeal as against the order passed in T.R.No.26 of 1987 dated 19.02.1999.

3. Heard Mrs. Jesi Jeeva Priya, learned counsel for the petitioner and M/s.Vidya, learned counsel appearing for the respondent.



4. Learned counsel for the revision petitioner would submit that the Special Deputy Collector ought to have dismissed the application having found that the delay was inordinate and cannot be condoned. Learned counsel would also state that the reasons assigned by the respondents seeking to condone the delay were shown to be false as even in the notice issued by the revision petitioner to the respondents on 09.12.2002, the revision petitioner had clearly referred about the order passed in T.R.No.26 of 1987. The respondents do not deny the receipt of the said notice. However, in the application seeking to condone the delay, it is stated as if the respondents came to know about the order dated 19.02.1999 only after receipt of T.C.T.P.No.6 of 2003.

5. Learned counsel for the revision petitioner would further state that the respondent was not entitled to condonation of delay, as the delay was not only inordinate but also not satisfactory explained. Moreover, the reasons assigned for the said condonation were also contrary to truth. Learned counsel for the petitioner would therefore pray for the revision being allowed.

6. Per contra, the learned counsel for the respondents would submit that the respondents 2 and 3 were minors and they were under the



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care and custody of the first respondent / their mother who was a widow and the mother was illiterate and she was not aware of legal matters.

Moreover, according to the respondents, it is only after the second respondent attained the age of majority, she took necessary legal steps to establish their rights and therefore it was only fair and proper to give an opportunity to the respondents to be heard on merits. It is therefore contended by the learned counsel for the respondents that the authority below had rightly condoned the delay and the same does not call for any interference.

7. I have perused the material papers available on record and also considered the arguments advanced by the respective counsel.

8. No doubt, the length of delay in the present case, is huge namely 1795 days. It is to be seen whether the respondents have given satisfactory reasons, just cause for not being able to take out the application at any earlier point of time. It is seen that respondents have given their statements of objections before the Tenancy Tahsilidar, Uthamapalayam, way back in the year 1989 to which the revision petitioner has also given a reply, only thereafter the tenancy Tahsildar, Uthamapalayam passed an order on 19.02.1999. Having participated in



the proceedings before the tenancy Tahsildar, the respondents cannot feeling exaggerates and try to explain their non appearance and inordinate delay by stating that the first respondent was an illiterate lady and that the respondents 2 and 3 were then minors.

9. However, in any event, when the revision petitioner had issued a notice on 09.12.2002, had admittedly, the same was served on the respondents on 11.12.2002, the respondents were clearly put on notice about the order dated 19.02.1999. Even thereafter, they have not taken any immediate steps to file an appeal against the said order and even subsequently, it is seen that in T.C.T.P.No.6 of 2003, the revision petitioner made his claim on 17.03.2003 and the second respondent filed his statement in reply on 11.11.2003. It is the case of the respondents that only on receipt of reply of notice in the T.C.T.P.No.6 of 2003, they came to know about the order passed on 19.02.1999.

10. However from the above, it is seen that the earliest instance when the respondents knew about the said order dated 19.02.1999, even giving a benefit of doubt to the respondents that they are not put on notice about the order dated 19.02.1999, despite, their participation in the proceedings even then, the earliest when they were put on notice about



the said order was by the legal notice issued by the revision petitioner's counsel on 09.12.2002. Even thereafter, the respondents have not taken any steps to file an appeal. Even going by the averments that the respondents came to know about the order dated 19.02.1999, only after the claim filed by the revision petitioner in T.C.T.P.No.6 of 2003, it is seen that the said petition was filed as early as on March, 2003 and after lapse of about eight(8) months, the second respondent also chose to file his statement even after receipt of notice in T.C.T.P.No.6 of 2003.

11. The appeal was not filed immediately and respondents chose to file the appeal along with condonation of appeal only towards middle of January, 2004. The revenue Court has rightly found that the delay is inordinate and has not been properly explained. Without stopping there, unfortunately the revenue Court has exceeds its jurisdiction and allowed the application and condoned the delay. For the reason that the revenue Court ought not to have exceeded the jurisdiction and condoned the delay and applied sympathetic consideration. The respondents have not made out any just or sufficient cause to condone the delay of 1795 days and the revenue Court clearly fell in error in condoning such huge delay.



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12. For all the above reasons, the revision petitioner is entitled to succeed and consequently the order order dated 31.07.2018 passed in A.P.I.A.No.5 of 2004 in A.P.No.(un numbered) of 2004, on the file of the Special Deputy Collector, Revenue Court, Madurai, is set aside.

13. This Civil Revision Petition is allowed and there shall be no orders as to costs. Consequently, connected miscellaneous petition stands closed.

17.11.2023

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

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To

1. Special Deputy Collector, Revenue Court, Madurai



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