



C.R.P.No.1430 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

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Annappan (deceased)
A.Mahendran

.. Petitioner

Vs.

1.The Competent Authority,
Special District Revenue Officer,
Land Acquisition,
Kancheepuram District.

2.The District Collector,
Kancheepuram District,
Kancheepuram.

3.Maheswari

4.Vishali

5.Varshini

6.Lakshmi

7.Munian

8.Venda

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.463 of 2018



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in Arbitration O.P.No.121 of 2012 dated 21.12.2022 by the Principal District Judge, Kancheepuram at Chengalpattu.

For Petitioner : Mr.Avinash Wathwani
for Mrs.V.Srimathi
For R1 & R2 : Mr.D.Gopal
Government Advocate

ORDER

This Civil Revision Petition has been filed against the order dated 21.12.2022 passed in I.A.No.463 of 2018 in Arbitration O.P.No.121 of 2012 on the file of Principal District Judge, Kancheepuram at Chengalpattu.

2.The brief facts of the case are as follows:

One Annappan aggrieved over the award passed by the District Collector under the National Highways Act 1956, in the land acquisition proceedings, filed the Original Petition challenging the same before this Court. However, this Court returned the Original Petition with a direction to file the same with the concerned jurisdictional District Court. On the basis of the direction of this Court, the Original Petition has been re-presented before the learned Principle Judge, Kanchipuram, Chengalpattu. Accordingly, the



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Original Petition was taken on file and numbered as O.P.No.121 of 2012. In the meantime, the petitioner Annappan died on 06.02.2007 and the same has not been brought to the notice of Court. Thereafter, since no steps was taken, the Original Petition has been dismissed as abated on 19.08.2013. Therefore, to set aside the abatement, the application has been filed by the petitioner's son with the delay of 1693 days and the same was rejected on the ground that the petitioner died on 06.02.2007, but, the Original Petition was filed in the year 2012 in the name of Annappan. Therefore, the Court below held that the delay has not been properly explained.

3.The learned counsel appearing for the petitioner submitted that the petitioner Annappan was alive when the Original Petition was returned by this Court. The petitioner's son was not aware of the Court proceedings and when the same was informed by his father's counsel, he came to know about the case and thereafter, he informed the counsel about his father's death. Therefore, merely because the counsel did not take steps to implead the legal heirs in a stipulated time, the rights of the parties cannot be taken away. Hence, he prayed to set aside the I.A.No.463 of 2018 in Arb.O.P.No.121 of



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2012 dated 21.12.2022.

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4.The learned counsel appearing for the respondents 1 and 2 submitted the Court below after considering the application filed by the petitioner has rightly dismissed the same, which does not requires any interference.

5.Heard the learned counsel appearing petitioner as well as the respondents 1 and 2 and perused the materials available on record.

6.Upon hearing and perusal of the records, this Court is of the view that, it is true that the delay has to be explained properly. However, the length of the delay is not a matter, when the reasons for the delay is properly explained. To advance substantial justice, this Court is inclined to extent liberal approach in the present case. Thus, the petitioner is certainly entitled to be brought on record to contest the matter on merits. Accordingly the impugned order is set aside and the delay is condoned.



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7.The Principal District Judge, Kancheepuram at Chengalpattu is directed to permit the petitioner to make necessary amendment in the application and dispose of the Original Petition within a period of four months from the date of receipt of a copy of this order.

8.Accordingly, the Civil Revision Petition is allowed. No costs.

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rst

Index : Yes/No

Internet: Yes/No

Speaking/Non-Speaking Order

To:

The Principal District Judge,
Kancheepuram at Chengalpattu.



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N.SATHISH KUMAR, J.

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