



CMP No.20203 of 2024 in CRP SR No.91439 of 2009

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A.D.JAGADISH CHANDIRA, J.,

This petition is filed to condone the delay of 5225 days in re-presenting the CRP SR No.91439 of 2009.

Brief Facts:

2. The petitioner is the Executive Officer of Arulmigu Parthasarathy Temple, Triplicane. The case of the petitioner/Temple is that the Temple had instituted a suit in O.S.No.8712 of 1981 against one E.Loganayaki and others, seeking recovery of possession of the suit property. The said suit was decreed on 11.01.1981 and an appeal in A.S.No.92 of 1990 was preferred against the judgment and decree dated 11.01.1981. The said appeal was dismissed on 05.02.1991. Subsequently, the Temple had filed E.P.No.1213 of 2003, seeking to execute the decree as against the then occupants of the suit property.



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3. The 8th respondent, representing on behalf of the minors 9 to 11 respondents, in E.P.No.1213 of 2003, had contested the execution proceedings by filing counter by raising untenable allegations. The said allegations as to executability of the decree were negated by the Court and was pleased to pass an order for executing the decree on 08.11.2006.

4. Subsequently, the minor 9th respondent, viz., B.Srinivasan, on attaining majority, had filed an application under Section 47 of the Civil Procedure Code and it was allowed on 01.07.2009. The executing Court had allowed the application inspite of the earlier order dated 08.11.2006, wherein similar points as to executability of decree were raised and the same were negated. As against the same, the Temple had filed civil revision petition through his counsel Mr.R.Shanmugam and the learned counsel Mr.R.Shanmugam had filed the CRP within the period of limitation. The papers were returned on 02.12.2009 and the same were represented on 23.12.2009. The CRP was once again returned on 04.01.2020. While so, Mr.R.Shanmugam, learned counsel, who was following up the case, had passed away on 26.12.2010. Subsequently, there had been a



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change in the staff of the petitioner Temple and the matter was inadvertently neglected. Subsequently, while reviewing the papers, it was found that the papers have not been represented. Contending that the oversight on the part of the staff of the petitioner Temple should not adversely affect the rights of the Deity causing serious prejudice, present revision petition has been filed seeking to condone the delay of 5225 days in re-presenting the CRP SR No.91439 of 2009.

5. Mr.A.K.Sriram, learned Senior Counsel appearing for the petitioner Temple would submit that the civil revision petition was filed within the time by the erstwhile counsel Mr.R.Shanmugam, who had diligently followed up the case and he passed away on 26.12.2010 and thereafter, due to some miscommunication and change of staff of the petitioner temple, there was a delay in representing the papers. When certain papers in S.A.No.903 of 2005 was required by the Temple, the parties came to the knowledge of the return of the papers and therefore, there was delay in representation. Learned Senior Counsel further submits that the encroachers should not be given an undue



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advantage on account of the lapses on the part of the staff and delay in representation of the papers.

6. Heard the learned Senior Counsel appearing for the petitioner and perused the materials available on record.

7. Though there had been long delay in representation, this Court has consistently held that the consideration for condoning the delay in filing is different from the consideration for representing the papers in time. This Court has to take into consideration the cause of the temple and the fact that due to the delay in representation of the papers unscrupulous encroachers over a temple property cannot be permitted to take undue advantage. On facts a liberal approach should be adopted in respect of condoning the delay in representation.

8. This Court is of the opinion that sufficient cause has been shown by the petitioner temple, seeking to condone the delay in representing the papers.



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9. Being satisfied with the reasons stated in the affidavit, filed in support of the petition, the delay is condoned and the petition is ordered on condition that the petitioner pays a sum of Rs.10,000/-(Rupees Ten thousand only) to the Tamil Nadu State Legal Services Authority, High Court, Madras within a period of two weeks from today.

10. Registry is directed to number the Civil Revision Petition, if it is otherwise in order.

03.10.2024

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