



C.R.P.(PD).Nos.2216 and 2218 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).Nos.2216 and 2218 of 2021
and CMP.No.16823 of 2021

C.R.P.(PD).Nos.2216 of 2021:

1.A.J.Balraj
2.A.J.Arulappa

... Petitioners

vs.

1.The Tahsildar,
Taluk Office,
Madurantakkam.

2.The District Collector,
Collectorate Office, Kanchipuram District,
Presently Chengalpattu District.

3.A.Balthajar
4.Nirmalkumar @ Albert
5.Andrew
6.Emerit
7.Gnanaprakasam
8.Francies
9.Annammal

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of



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India, praying to set aside the order and decreetal order dated 27.04.2021 passed by the learned District Munsif Judge, Madurantakkam, Chengalpet District, allowing I.A.No.1 of 2021 in O.S.No.113 of 2013 and dismiss I.A.No.1 of 2021 in O.S.No.113 of 2013 by allowing this Civil Revision Petition.

For Petitioners : Mr.N.Nagusah

For Respondents : Mr.C.Sathish
Government Advocate for R1 and R2
No Appearance for R3, R8, R9
R5 and R6 died
R7-Refused
R8-left

C.R.P.(PD).Nos.2218 of 2021:

1.A.J.Balraj
2.A.J.Arulappa

... Petitioners

vs.

1.The Tahsildar,
Taluk Office,
Madurantakkam.

2.The District Collector,
Collectorate Office, Kanchipuram District,
Presently Chengalpattu District.

3.A.Balthajar
4.Nirmalkumar @ Albert
5.Andrew
6.Emerit



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7.Gnanaprakasam

8.Francies

9.Annammal

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decretal order dated 27.04.2021 passed by the learned District Munsif Judge, Madurantakkam, Chengalpet District, allowing I.A.No.2 of 2021 in O.S.No.113 of 2013 and dismiss I.A.No.2 of 2021 in O.S.No.113 of 2013 by allowing this Civil Revision Petition.

For Petitioners : Mr.N.Nagusah

For Respondents : Mr.C.Sathish
Government Advocate for R1 and R2
No Appearance for R3, R8, R9
R5 and R6 died
R7-Refused
R8-left

COMMON ORDER

Civil Revision Petition No.2216 of 2021 is filed challenging the order passed by the trial Court allowing the application filed by the respondents 1 and 2 to condone the delay of 696 days in seeking to set aside



the ex-parte decree passed against the petitioners.

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2. The petitioners herein filed a suit for permanent injunction restraining the other respondents from interfering with their peaceful possession and enjoyment of the 'A' schedule property. The petitioners also sought for mandatory injunction directing the respondents 1 and 2 to enter the name of plaintiffs in the Natham A register for B schedule mentioned property. The said suit was decreed ex-parte on 27.03.2018. Thereafter, the instant application has been filed by the respondents 1 and 2 seeking to set aside the ex-parte decree along with application to condone delay of 696 days in filing the application. The instant application was presented on 23.03.2020. In the affidavit filed in support of the condone delay petition, it was stated by the respondents 1 and 2 that the suit was posted for filing a written statement on 27.03.2018 and the same could not be filed on that day due to misplacement of case files by earlier officer. However, the respondents 1 and 2 immediately after acquiring knowledge about Ex.P1, filed the present application seeking to set aside the ex-parte decree with the delay.



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3. It is brought to the notice of this Court that along with petition to set aside the ex-parte decree, the respondents 1 and 2 also filed the written statement stating that the suit properties are classified as sarkar poromboke properties. Taking into consideration the facts and circumstances of the case and also reason assigned by the respondents 1 and 2 that papers were misplaced by the previous Officer, the trial Court decided to exercise its discretion in favour of the respondents 1 and 2 and pleased to condone the delay.

4. Having regard to the fact that the respondents 1 and 2 already filed a written statement along with petition to set aside the ex-parte decree, this Court is inclined to take liberal approach in considering the condonation delay petition, especially, when the trial Court exercised its discretion in favour of the respondents 1 and 2 and condoned the delay. However, taking into consideration the inconvenience caused to the petitioners, this Court is inclined to impose the cost of Rs.10,000/- to the respondents 1 and 2 as a condition for condoning the delay.



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5. Hence, the respondents 1 and 2 are directed to pay a sum of Rs.10,000/- as cost to the petitioners within a period of four weeks from the date of receipt of a copy of this order. In case, the respondents 1 and 2 failed to pay the cost within time stipulated, the impugned order will not enure to the benefit of respondents 1 and 2 and the I.A.No.1 of 2021 filed to condone the delay shall stand automatically dismissed due to non payment of costs without further reference to this Court. In case, cost is paid within time stipulated, the Civil Revision Petition stands dismissed by confirming the impugned order in this revision.

6. The Civil Revision No.2218 of 2021 is filed challenging the order passed by trial Court allowing the petition filed to set aside exparte decree. In view of order passed in CRP.No.2216 of 2021, it is clarified, if petitioners pay cost as mentioned above, this revision shall stand dismissed. In case petitioners fail to pay cost as mentioned above, I.A.No.1 of 2021 shall get dismissed and as a necessary consequence, the order impugned in this revision will get set aside and I.A.No.2 of 2021 will also get dismissed



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along with I.A.No.1 of 2021 as a result of non payment of costs. With these clarifications CRP.No.2218 of 2021 disposed. No costs. Consequently, connected miscellaneous petition is closed.

22.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The District Munsif Judge, Madurantakkam,
Chengalpet District.



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S.SOUNTHAR, J.

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