



CRP.No.5036 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

Date 11.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP.No.5036 of 2023 &
CMP.No.29311 of 2023

1. Saravanan
2. Arumugam

- Ramar (died)
3. Senthamizselvi
W/o.Ramar,
4. Minor.Senthilraja,
S/o.Ramar
5. Minor Sanjai,
6. Govindasamy
7. Thangaponnu

... Petitioners

Versus

1. Banumathi
2. Swaminathan
3. The District Collector,
Office of the District Collector,
Manjakuppam, Cuddalore.
4. The Special District Revenue Officer,
Land Cquisition,
Thandavankuppam,
Neyveli – 2,
Viruthachalam Taluk,
Cuddalore District.



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5. The Special Sub Collector,
Land Acquisition,
Thandavankuppam,
Neyveli – 2,
Viruthachalam Taluk,
Cuddalore District.
6. The Special Tahsildhar No.1,
Land Acquisition,
Mandarakuppam,
Neyveli – 3,
Viruthachalam Taluk,
Cuddalore District.
7. The Special Thasildhar No.3,
Land Acquisition,
Mandarapukkam,
Neyveli – 3,
Viruthachalam Taluk,
Cuddalore District.

. . . Respondents

PRAYER : Civil Revision Petition fled under section 115 of Cr.P.C., against the order and decree dated 21.09.2023 made in I.A.No.14 of 2020 in unnumbered A.S.No. of 2023 on the file of the Principal District Judge, Cuddalore District, Cuddalore.

For petitioner : Mr.R. Ramesh

For Respondent : R1 & R2 unserved
Mr.P.Gurunathan, AGP for R3 to R7



ORDER

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This Civil Revision Petition has been filed challenging the order of the trial court in dismissing the application filed to condone the delay of 570 days in filing the Appeal suit.

2. The plaintiffs/Revision Petitioners have filed a suit for specific performance contending inter-alia that the husband of the 1st respondent herein has entered into an agreement with the Revision petitioners/plaintiffs for sale of the property for a total sale consideration of 1,05,000/-. An agreement came to be executed on 28.03.2003 and on the date of agreement, the Revision Petitioners/plaintiffs have paid an advance amount of Rs.60,000/- and in respect of remaining sale consideration, it was agreed between the parties that the payment would be made within a period of two years from the date of execution of the agreement. After entering into the agreement, the husband of the 1st respondent died and thereafter, a suit in O.S.No.56 of 2007 for specific performance has been filed in the year 2007. The trial court, after appreciating witnesses and documents on both sides, dismissed the suit for specific performance on 02.08.2016.



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3. Challenging the dismissal of the suit, the plaintiffs/Revision Petitioners have filed appeal before the Principal District Judge, Cuddalore with a delay of 570 days along with a petition for condoning delay in I.A.No.14 of 2020. The plaintiffs/Revision Petitioners ought to have filed the appeal on 02.10.2016, but they have preferred the appeal with a delay of 570 days.

4. The Revision Petitioners/plaintiffs have not filed the appeal within the prescribed limitation period, because of the reason that the 1st plaintiff/revision petitioner has fallen ill and suffered a dysentery and jaundice. The 1st plaintiff/1st Revision petitioner is prosecuting the appeal on behalf of the other plaintiffs/Revision Petitioners, so, for the abovesaid reason, he is not able to file the appeal in time and in the course of which, there arose a delay of 570 days in filing the appeal. Hence, he sought to condone the delay of 570 days in filing the appeal and prayed for allowing I.A.No.14 of 2020.

5. The said I.A., was opposed by the respondents 6, 7 and 8 contending that the Plaintiffs/revision petitioners have not assigned any valid reason for



condoning the delay and the same is invented only for the purpose of the case.

The trial court, after considering the affidavit and counter affidavits dismissed the application for condonation of delay in filing the appeal suit on the ground that the Revision Petitioners/Plaintiffs have not proved the reason assigned for such delay by adducing proper oral and documentary evidence.

6. Challenging the same, the revision petitioners/plaintiffs are before this Court.

7. Heard the learned counsel appearing for Revision Petitioners and the learned Addl. Govt. Pleader appearing for the respondents 3 to 7 and perused the materials available on record.

8. It is the contention of the Revision Petitioners/plaintiffs that since there was an agreement between the parties and an advance amount was also paid, the Revision Petitioners may be given one more opportunity to contest the suit by condoning the delay in filing the appeal. It is the contention of the respondents 3 to 7 that the Revision Petitioners have not assigned valid reason



for condonation of the delay and there is no evidence produced before the court justifying the reason for delay.

9. At the outset, this Court is of the view that though in respect of applications filed under section 5 of the Limitation Act, the word sufficient cause, normally would receive liberal approach by the courts to advance the substantial justice, the same cannot be a straight jacket formula. When a person come to the court to condone a huge delay, he has to atleast, offer a reasonable and convincing reason to justify such delay. In the present case, the delay sought to be condoned was mainly on the ground that the 1st Revision Petitioner was not well and he has been suffering from dysentery and jaundice at the relevant point of time and during such period, he suffered a set back in his health condition and therefore, there arose a delay of 570 days.

10. It is pertinent to note that the 1st Revision Petitioner/1st plaintiff and the 2nd Revision Petitioner/2nd plaintiff are residing in the same house, moreover, the 2nd revision petitioner/2nd plaintiff is his brother. When the 1st revision petitioner was really fell ill, nothing prevented his brother-namely the



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2nd revision petitioner from prosecuting the appeal. They should be atleast vigilant to prosecute the appeal suit. Therefore, for the vague reasons, the court cannot extend the benefit in condoning the delay. The explanation offered by the parties for the delay caused must be reasonable and should not be an artificial one. The very explanation offered in this case, for the delay, appears to be artificial in nature. In such a view of the matter, it is highly improbable to believe the reason to extend the benefit of condoning the huge delay caused. Hence, I do not find any infirmity or illegality in the order passed by the court below in dismissing the application. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No

Internet: Yes

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To

The Principal District Judge, Cuddalore District,
Cuddalore.

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N. SATHISH KUMAR, J.

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