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C.M.P.No.5281 of 2024
in A.S.SR.No.20772 of 1999

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 27.03.2024	Pronounced on: 30.04.2024
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CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.P.No.5281 of 2024
in
A.S.SR.No.20772 of 1999

Saraswathi Ammal

.. Petitioner

Vs.

1.The Special Tahsildar,
(Land Acquisition),
Naval Air Station, Project Unit IV,
Arakonam.

2.Defence Estate Officer,
Madras Circle, Fort St. George,
Chennai.

.. Respondents

Prayer: This Miscellaneous Petition is filed under Order XLI Rule 3(a) of CPC r/w Section 5 of Limitation Act, praying to condone the delay of 7223 days in filing the petition to set aside the order of dismissal dated 12.02.2004 in A.S.SR.No.20772 of 1999.



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For Petitioner : Mr.K.Ravindranath
For Respondents : Mr.V.Ramesh
Government Advocate

ORDER

This petition has been filed to condone the delay of 7223 days in filing the petition to set aside the order of dismissal dated 12.02.2004 in A.S.SR.No.20772 of 1999.

2.The petitioner is the erstwhile land owner, whose land was acquired for the Naval Air Station at Arakkonam. Beneficiary is the 2nd respondent. The award has been passed and compensation amount is also been determined. Seeking enhancement of compensation, the original land owner filed A.S.SR.No.20772 of 1999. The appeal papers were returned by the Registry on 24.02.1999 giving ten days time.

3.The Advocate Clerk misplaced the above papers and once again it was presented and returned for certain clarifications. As per the affidavit, the



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case was posted for compliance on 28.06.2011 and due to non-representation, it was dismissed. Hence, this application.

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4.The original counsel engaged by the land owner was appointed as a Senior Counsel for the Central Government Standing Counsel. The returned papers have got mixed up in the office of the clerk. In the default list, the case has been enlisted and however during the bifurcation of the Madras High Court, certain case bundles have been wrongly sent to the Madurai Bench of Madras High Court and again re-sent to the Principal Bench. Subsequently, it appears to have been listed for compliance that created a confusion and fault of action of the counsel has resulted in delay. The original counsel was also appointed as Central Government Standing Counsel and the case has been entrusted to the junior counsel who could not be in a position to follow up the matter due to the above stated reasons.

5.It is brought to my notice that in respect of very same Notification, other land owners have files A.S.No.881 & 894 of 2006, 35, 79, 93, 352, 354, 355, 365 & 487 of 2007 and in those appeals filed by the claimants, the



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Division Bench of this Court has enhanced the compensation amount to Rs.750/- per cent and the same was confirmed by the Hon'ble Supreme Court.

Thereafter in the above said cases, the judgment of the Division Bench of this Court in respect of the very same Notification, wherein the compensation amount is fixed at Rs.750/- per cent as confirmed by the Hon'ble Supreme Court has been extended to those land owners in those appeals. So also in A.S.No.240 of 2007 by judgment dated 06.07.2010, the very same yard stick has been applied since all are covered under the very same Notification and the lands are in the very same survey number. Under these circumstances, the petitioner has come out with this petition for the relief sought for above.

6.However, due to mistake committed by the office of the clerk of the counsel, who was subsequently appointed as the Senior Counsel for the Central Government and there was some mess in the default list certain cases have been wrongly sent to Madurai Bench of Madras High Court and re-sent to the Principal Bench and thereafter the matter was suddenly listed for compliance on 28.06.2011 was went unnoticed by the junior counsel and the earlier counsel appointed by the land owner resulted in dismissal for default



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at the Appeal AE default list.

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7.Considering the fact that in respect of the very same Notification, the Division Bench of this Court has granted some relief to the land owner as confirmed by the Hon'ble Supreme Court which was subsequently extended to other land owners in the above stated appeal A.S.Nos., and this petitioner land also fall in the very same survey number in the very same Notification, hence, I am inclined to condone the delay in view of the fact that some discrepancy said to have been happened in the office of the Registry during the bifurcation of the Madras High Court and re-transmitting of the such cases to the Principal Bench and hence, without going on those area, I am inclined to condone the delay of 7223 days.

8.Accordingly, the delay of 7223 days is condoned and the Civil Miscellaneous Petition is allowed on payment of cost of Rs.2,000/- (Rupees Two Thousand Only) to the '**High Court Legal Services Committee, High Court, Chennai**' within a period of three weeks from the date of receipt of a copy of this order.



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9.Registry is directed to number the A.S. on filing of copy of payment
as stated supra.

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Index : Yes / No
Internet : Yes / No
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RMT.TEEKAA RAMAN, J.

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