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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

C.M.P.(MD)Nos.7057, 7059, 7061, 7063 & 7064 of 2024
in
W.A.(MD)SR.28747, 28750, 28753, 28756 & 28759 of 2016

The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar Scheme, Madurai. ... Petitioner in all C.M.Ps.

-Vs-

1.V.S.Chandrasekaran

2.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.

3.The Special Tahsildar (LA),
Ellis Nagar Scheme, Madurai. ... Respondents
in C.M.P.(MD)No.7057 of 2024

1.Mohamed Fathima

2.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.

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3.The Special Tahsildar (LA),
Ellis Nagar Scheme, Madurai. ... Respondents
in C.M.P.(MD)No.7059 of 2024

1.R.V.Vadivelpillai
2.R.V.Logendran
3.L.Yuvaraj
4.R.Kasi Viswanathapillai

5.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.

6.The Special Tahsildar (LA),
Ellis Nagar Scheme, Madurai. ... Respondents
in C.M.P.(MD)No.7061 of 2024

1.R.M.Subramaniam
2.R.M.Muniyappan
3.R.M.Meenakshi
4.S.Visalakshi

5.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.

6.The Special Tahsildar (LA),
Ellis Nagar Scheme, Madurai. ... Respondents
in C.M.P.(MD)No.7063 of 2024

1.A.Ramakrishnan
2.A.Jayaraman
3.A.Jeyaprabhu
4.A.Alagammal
5.Adakki
6.Banumathi

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7.Vijayarani

8.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.

9.The Special Tahsildar (LA),
Ellis Nagar Scheme, Madurai. ... Respondents
in C.M.P.(MD)No.7064 of 2024

PRAYER in C.M.P.(MD)Nos.7057, 7059, 7061, 7063 & 7064 of 2024: Petitions filed under Order IV Rule 9(4) of A.S.Rules, to condone the delay of 2759 days in representing the Writ Appeals, which are registered as W.A.(MD)SR.28747, 28750, 28753, 28756 & 28759 of 2024 in W.P.(MD)Nos.9124, 9125, 9301 to 9303 of 2008 before this Court.

PRAYER in W.A.(MD)SR.28747, 28750, 28753, 28756 & 28759 of 2016: Petitions filed under Clause 15 of Letters Patent, to allow the Writ Appeals and set aside the order dated 22.10.2008 made in W.P.(MD)Nos.9124, 9125, 9301 to 9303 of 2008 on the file of this Court.

For Petitioners : Mr.A.Kannan

COMMON ORDER

[Order of the Court was made by *R.SURESH KUMAR, J.*]

There has been a delay of 2759 days in representing the above said Writ Appeals. For such inordinate and very huge delay, some reasons have been stated

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by the petitioner in paragraph No.4 of the affidavit, which reads thus:-

"4.I humbly submitted that in the said stage during the month of March 2016, when the Board officials starting the development works the land owners obstructed the work, by stating that the orders obtained by them reached finality and given trouble to the development work. Immediately we contacted our erstwhile counsel and know about the status of the appeal, but we could not get any particulars from him. Hence when we searched the Court records in our office, but we could not find the papers. Hence we directed our counsel to apply certified copies and to file appeal. Accordingly certified copies were obtained on 18.07.2016 and we immediately filed the appeals. But in the meantime there is some delay in filing the Main Writ Appeal. After that the TNHB counsels were changed and new counsels are joined, when approached the erstwhile counsels to hand over the pending cases, we find the present writ appeal main bundle in W.A.(MD)S.R.Nos.28747 of 2016 were not represented after complying the direction within the time. When we enquired, it was stated that the returned main Appeal Bundles were misplaced in the advocate office with other disposed bundles and was not traced out and was forgotten to represent the same. After persistent effort, we have traced the returned papers and rectified the mistakes only recently and hence a delay of days has occurred in representing the above Writ Appeal. Unless the day in representing the above condoned and an opportunity is given to the Appellant to put forth his case, the public institution TNHB will

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be seriously prejudiced for no fault on its part. The appellant has fair chances of success in the above Writ Appeal. The delay is neither willful nor wanton, but due to above bona fide reasons. Since the appeal is not filed within the time, the Ex-Land owners are in hurry to sell the property on the strength on the writ petition order. Hence interim stay is necessary. The respondents cannot have any objection to decide the case on merits."

2.We have gone through the said reasons. Normally, this Court would take a very lenient view in the cases of delay in representing the case papers, where if there has been any administrative delay or some delay due to the non-availability of the records and also change of counsel, these kind of reasons would clearly be stated by the parties for the delay in representation.

3.Even for such reasons, if the delay is reasonable, minimum and justifiable, certainly, the Courts would take a lenient view and allow those cases of condoning the delay in representation, for which, the reason stated by the petitioner is that the bundle got mixed up with or misplaced in the Advocate's Office. Assuming that the bundle got misplaced in the Advocate's Office, for eight years, no action had been taken by the petitioner to trace out the bundle and therefore, the reason stated in paragraph No.4 of the affidavit is an invented

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reason and not supported by any other materials and also it is totally unbelievable.

4.If these kind of inordinate and very huge delay are allowed by this Court as a matter of course, that will send a wrong signal to the litigant public as well as the Advocate, who deals with this kind of matter to take their own time lethargically for years together.

5.Therefore, we are not satisfied with the reasons stated by the petitioner for condoning such inordinate and very huge delay in representation. Resultantly, these Civil Miscellaneous Petitions are dismissed. Consequently, connected W.A.(MD)SR.28747, 28750, 28753, 28756 & 28759 of 2016 are rejected at SR stage itself. No costs.

[R.S.K., J.] & [G.A.M., J.]
13.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

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