



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 08.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

**C.R.P(MD)Nos.1445 and 1453 of 2024
and
C.M.P(MD).No.8562 of 2024**

K.Neelambal

... Petitioner in both petitions

-Vs-

1.The Tahsildar,
Taluk Office Court Road,
Thanjavur.

2.The District Collector,
Collector office,
Thanjavur.

3.The Special Commissioner cum
Director of Land Survey and Land Revenue
Chennai-5.

.. Respondents in both Petitions

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the order dated 12.02.2024 passed in I.A.Nos.633 and 634 of 2023 in O.S.No.68 of 2009 by the Additional District Munsif Court, Thanjavur with costs.



In both petitions

For Petitioner : Mr.A.Senthilkumar

For Respondents : Mr.SRA.Ramachandran

Additional Government Pleader

COMMON ORDER

These civil revision petitions are connected to each other and as such, they are taken up and disposed of by this common order.

2. Heard Mr.A.Senthilkumar, the learned counsel appearing on behalf of petitioner.

3. The learned counsel for the petitioner taking this Court through the petition filed to condone the humongous delay of 2609 days and to the order of the trial Court would submit that absolutely no reason whatsoever has been given even to properly explain the delay, muchless an acceptable delay. The respondents have simply kept quiet after the *exparte* decree and only because the petitioner filed early writ petition to change the patta, when the revenue authorities did not act as per the



decree, now belatedly this application is filed. Therefore, he would pray that the trial Court ought not to have allowed the petition. Mere payment of cost will not alter the grave prejudice, which is caused to the petitioner.

4. I have considered the said submission made by the learned counsel for the petitioner and perused the materials record of the case.

5. To an extent, I agree with the learner counsel for the petitioner that the respondents have not given reasons in detail to condone the such humongous delay of 2609 days. In the normal course, this Court would have interfered with the order allowing the condonation of delay. But, however, in this case, even in the plaint, it is the specific case of the petitioner that out of the entire extent, an extent of 60 cents was wrongly subdivided in Survey No.197/2 as குளம் without any enquiry whatsoever. It is the contention of the petitioner that the said 60 cents is also a dry land. Therefore, at some point of time, there should be an enquiry whether the said 60 cents of land is dry land or குளம், because if it is குளம், even if the respondents failed to defend the suit, even in an *ex-*



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parte scenario in view of the earlier the Full Bench judgment of this Court in ***T.K.Shanmugam -vs- State of Tamil Nadu [(2015) 5 LW 397]*** and a host of other Judgements on the subject, water body can never be allowed to be converted into other uses. In view of the larger purpose i.e., the suit property being claimed to be a water body by the Government, only on the said reason alone, this Court refrains from interfering into the order of the trial Court as there has to be an objective enquiry whether the land is actually a dry land or குளம் and that can happen in the present trial.

6. However, it can be seen that just because the respondent officials have kept quiet, the petitioner was forced to approach this Court by way of a writ petition also. The trial Court has ordered a sum of Rs. 500/- and Rs.1,000/- in these two cases as cost, which is grossly inadequate. I am of the view that the petitioner being made to run to the office of the respondents should be adequately compensated. Therefore, the cost which is awarded by the trial Court is enhanced to Rs.25,000/- (Rupees Twenty Five Thousand only) each in both the civil revision petitions.



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7. In the result, the civil revision petition stands disposed of on

the following terms :

(i) the order dated 12.02.2024 passed in I.A.Nos.633 and 634 of 2023 in O.S.No.68 of 2009 by the Additional District Munsif Court, Thanjavur shall stand modified with reference to the quantum of costs;

(ii) The costs in both the Civil Revision Petitions is enhanced to Rs. 25,000/- in each of the case. After deducting the sum of Rs.500/- and Rs. 1000/- as the case may be, the balance sum shall be paid to the petitioner by the respondents on or before 16.08.2024;

(iii) In the event of the respondent is not paying the balance amount, this Civil Revision Petitions shall stand allowed and I.A.Nos.633 and 634 of 2023 in O.S.No.68 of 2009 on the file of the Additional District Munsif Court, Thanjavur, shall stand dismissed.

(iv) If the cost is paid within the time, the Civil Revision Petitions shall stand dismissed and the exparte decree itself shall stand set aside.



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(v) Considering the fact that the suit is of the year 2009, written statement should also be filed by the respondent on or before 16.08.2024, thereupon, the trial Court shall take up the case on a preferential basis and dispose of the same, in any event, within a period of six months from the date of receipt of a copy of this order.;

(vi) The respondent/ Government will be at liberty to recover the cost amount paid by it from individual concerned who had been negligent and who has slept over the matter in not taking the steps in time.

(vii) Consequently, connected Miscellaneous Petition is closed.

08.07.2024

Index : Yes / No
Internet : Yes/ No
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D.BHARATHA CHAKRAVARTHY, J.

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