



*C.M.P(MD)No.9006 of 2022
in Rev.Aplc(MD)No.44630 of 2022*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.03.2024

Pronounced on : 22.03.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.P.(MD)No.9006 of 2022
and
Rev.Aplc(MD)No.44630 of 2022

1.Pushpavalli

2.Jeyashree

3.Latha

4.M.Logeswari : Petitioners/Petitioners

Vs.

1.Velusamy

2.The Principal,
Amala Annai Higher Secondary School,
Ponnamaravathy Taluk,
Pudukottai District.

3.The Sub Registrar,
Sub Registrar Office,
Ponnamaravathy Taluk,
Pudukottai District.



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4.The Tahsildar,
Tahsildar Office,
Ponnamaravathy Taluk,
Pudukottai District.

5.The District Collector,
District Collector Office,
Pudukottai District.

: Respondents/Respondents

(Name of the fourth petitioner is amended vide Court order
dated 05.01.2024 made in CMP(MD)No.12958/2023 in
Rev.Aplc(MD)No.SR 44630 of 2022)

Prayer in C.M.P(MD)No.9006 of 2022: This Civil Miscellaneous
Petition filed under Section 5 of Limitation Act, to condone the delay of
159 days in filing the Review Petition.

Prayer in Rev.Aplc(MD)No.12865 of 2013 : The Review petition filed
under Section 47 Rule 1 and 2 of C.P.C., to review the order passed in
Civil Revision Petition(MD)No.1027 of 2019, dated 08.01.2020 and
confirming the trial Court order made in I.A.No.223 of 2018 in O.S.No.82
of 2012 on the file of the District Munsif cum Judicial Magistrate,
Thirumayam.

For Petitioners : Mr.J.Pricilla Pandian

For Respondents : Mr.V.R.Shanmuganathan, for R1.

: Mr.J.Ashok,
Additional Government Pleader, for R3 to R5.

: No Appearance, for R2.



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ORDER

The Miscellaneous Petition has been filed under Section 5 of the Limitation Act to condone the delay of 159 days in filing the review application, challenging the order, dated 08.01.2020 made in C.R.P(NPD) (MD)No.1027 of 2019.

2. The deceased plaintiff has filed a suit in O.S.No.82 of 2012 against the respondents claiming permanent injunction restraining the defendants 1 and 2 and their men from interfering with the plaintiff's cultivation and evicting them from the suit property illegally and permanent injunction restraining the third defendant from registering any sale deed to be executed by the first defendant and restraining the fourth defendant from making name changes in their favour.

3. The plaintiff was reported dead on 24.09.2016. Since the steps were not taken for the deceased plaintiff, the suit was ordered to be dismissed for default on 12.03.2013. The present revision petitioners claiming to be the legal heirs of the deceased plaintiff Muthalagan have filed



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an application in I.A.No.223 of 2018 under Section 5 of Limitation Act to condone the delay of 909 days in filing the application to restore the suit, which was dismissed for default on 12.03.2013.

4. The first respondent has filed a counter statement raising objections. The learned District Munsif, after enquiry, has passed an order, dated 20.07.2018, dismissing the petition. Aggrieved by the order of dismissal, the proposed plaintiffs have preferred a revision in C.R.P(NPD) (MD)No.1027 of 2019 before this Court and a learned Judge of this Court, after hearing the both parties, has passed the order, dated 08.01.2020 dismissing the revision. Challenging the order dismissing the revision, the proposed plaintiffs have preferred the present review petition.

5. The main contention of the revision petitioners is that the plaintiff Muthalagan husband of the first revision petitioner and father of the revision petitioners 2 to 4, was bread winner of their family; that they are agricultural coolies and are having three unmarried daughters; that since she had lost her husband, their livelihood was totally affected; that the first petitioner was also bedridden for over months together and she could not



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move anywhere for nearly two years; that she was taken treatment in Government Hospital and that since she was taking continuous treatment, she could not contact her trial Court counsel for taking steps to restore the suit and implead the legal heirs of her husband along with delay excuse petition for 909 days; that the above delay execution petition was dismissed on 07.07.2018 and they have preferred the revision in C.R.P(NPD)(MD)No.1027 of 2019 and the same was ordered to be dismissed only on the ground of non-production of medical documents and the revenue records.

6. It is the further contention of the revision petitioners that the petitioners had gone through the orders passed by this Court; that the petitioners had number of documents to show that the first petitioner was bedridden and taking treatment at Government Hospital; that she could not produce the said documents before the concerned Court because of her health issues; that the petitioners have produced both Adangal and medical certificates now to prove the contentions raised by them; that total lockdown was imposed during the pandemic period and as such, she could not contact her counsel for filing review application within the time limit



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and that there was a delay of 159 days in filing the review application and that the delay is neither willful nor wanton.

7. The first respondent has filed a counter statement that he sold the property to one Rajendran for valuable consideration vide sale deed, dated 09.03.2022; that the said Rajendran had in turn sold the property to Mrs.Kalyani and Mr.Ramanathan vide sale deed, dated 26.03.2022; that subsequently, one Sujatha had purchased a portion of the property; that the first defendant was not having any right, title or interest to the suit property in dispute; that the first respondent and thereafter the above said vendors were and are in lawful possession and enjoyment of the lands; that the petitioners had issued undated notices to various persons including the first respondent and subsequent purchasers for which, the first respondent and the other purchasers had sent suitable reply dated 07.06.2022; that thereafter, they have given a public notice in the newspapers on 14.09.2022 for which, appropriate reply notice was also issued; that they have issued legal notice for the third respondent on 24.12.2022 for which also reply dated 05.01.2023 was issued; that the claim of the petitioners is illegal and misconceived; that the above petition lacks not only merits, but also bona fide and that therefore, this Petition is liable to be dismissed.



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8. It is seen from the records that during the pendency of the revision, this Court has appointed an Advocate Commissioner and the Commissioner visited the suit property and filed a report stating that both the parties did not produce any documents regarding the agricultural operations in the suit property and that there was no symptoms of any agricultural operations at least for 10 years in the suit property.

9. The learned Judge, by observing that the proposed plaintiffs did not file any documents to show their possession; that no Adangal copy was filed on the side of the proposed plaintiffs; that the above suit was dismissed even during the lifetime of the husband of the proposed second plaintiff; that there is no document to show that the sole plaintiff was a cultivating tenant in the suit property; that the petitioners have not filed any documents to show that the plaintiff suffered from illness and that the proposed second plaintiff was bedridden for over two years and by holding that there is nothing sufficient enough to interfere in the orders passed in I.A.No.223 of 2018, dismissed the revision.



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10. As already pointed out, the main reason canvassed by the revision petitioners is that the first revision petitioner was bedridden and was taking treatment at Government Hospital and that though they had number of documents, they could not produce the same before this Court and the other reason is that due to total lockdown during the pandemic period, she could not contact her counsel for filing the review within the limitation time.

11. Except the above vague and bald allegations, the petitioners have not elaborated anything further. As rightly contended by the learned counsel for the respondents, this Court had also dealt with the merits of the main case and also taking note of the fact that the petitioners have not produced any iota of evidence to show that the original plaintiff was suffering from illness and that the proposed second plaintiff was bedridden for over two years, dismissed the revision.



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12. According to the petitioners, since they had number of documents to show the health condition of the proposed plaintiff, they have chosen to file the review petition on the on the fond hope that their revision petition would be allowed. As rightly contended by the learned counsel for the respondents, the petitioners have not produced any iota of evidence for the delay occurred in filing the review petition.

13. It is settled law that the word “sufficient cause” in Section 5 of Limitation Act should receive liberal construction to do substantial justice and the length of delay is no matter, but acceptability of the explanation is the only criterion. At this juncture, it is necessary to refer the decision of this Court in the case of ***T.Natarajan Vs. Srivari Housing and Construction Ltd. and others*** reported in ***2020 SCC OnLine Mad 2355*** and the relevant passages are extracted hereunder;

“4.The law of limitation is substantive law. Condonation of delay is an exception. The Courts are bound to exercise discretionary power judiciously and by recording reasons. The Courts are bound to follow the law of limitation in all circumstances and only on exceptional circumstances, wherever the reasons are found genuine, then only the Courts



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can condone the delay and not otherwise. Mechanical approach in condonation of huge delay is unacceptable. In such an event, the Courts are diluting the law of limitation, which is impermissible. The power of discretion is to be exercised by recording reasons and it is not as if the Courts can condone the huge delay without any genuine reasons.

....

7.

16. The concepts such as “liberal approach”, “justice oriented approach”, “substantial justice” cannot be employed in jettison the substantial law of limitation. The law of limitation is substantial and therefore the principles laid down is to be scrupulously followed while condoning the delay under the law of limitation. The limitation has got a specific purpose and object and more specifically to avoid prejudice to the respective parties. In the event of prolongation or protraction of the litigation, undoubtedly and for an unspecified period when the specific law of limitation has got a specific purpose and object, then the power of discretion is to be exercised cautiously. Power of discretion cannot be exercised in the absence of any valid reason. In



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other words, powers can be exercised for the purpose of passing orders only by recording reasons which must be candid and convincing and must be passed on certain sound legal principles. Therefore, recording of reasons for exercising discretionary powers is one of the elementary principles of law. In the event of exercising discretionary powers without recording reasons, undoubtedly the same would cause not only prejudice and will set a bad principle and therefore, the Courts must be cautious while exercising power of discretion more specifically in such matters where the law of Limitation is substantial.”

14. It is also settled law that the delay condonation petition should not be dealt with in a routine manner and mechanical approach in condonation of huge delay cannot be accepted. In the present case, as already pointed out, the revision petitioners have not assigned any valid or acceptable reason or explanation for the delay. Hence, this Court is not inclined to condone the delay of 159 days in filing the Review Petition. Consequently, this Court concludes that the above petition is devoid of merits and the same is liable to be dismissed.



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15. In the result, the Miscellaneous Petition is dismissed.
Consequently, Rev.Aplc(MD)No.44630 of 2022 is rejected at the SR stage
itself.

22.03.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
das

To

- 1.The Sub Registrar,
Sub Registrar Office,
Ponnamaravathy Taluk,
Pudukottai District.
- 2.The Tahsildar,
Tahsildar Office,
Ponnamaravathy Taluk,
Pudukottai District.
- 3.The District Collector,
District Collector Office,
Pudukottai District.
- 4.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR,J.

das

**Pre-Delivery Order made in
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Dated : 22.03.2024