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C.M.P(MD)Nos.1725, 1728, 1721 and 1727 of 2023
in C.M.A(MD)SR Nos.67072, 67074, 67070 and 67073 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **25.10.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**
AND
THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

C.M.P(MD)Nos.1725, 1728, 1721 and 1727 of 2023
in C.M.A(MD)SR Nos.67072, 67074, 67070 and 67073 of 2022

C.M.P.(MD)No.1725 of 2023

The Project Director,
National Highways No.45E & 220,
National Highways Authority of India
Having his Office at Plot No.3,
Suriya Towers,
2nd Floor, 1st East Street,
K.K.Nagar (Near Muthuvelrajan Hospital)
Madurai - 625 020.
Presently at No.1, Aishwaryam Heights
Indira Nagar,
1st Street Sennamanaickenpatti (PO)
Thadikombu road,
Dindigul - 624 004.

... Appellant

versus

1. B.Malaiammal (died)
2. The Special District Revenue Officer/
Competent Authority for Land Acquisition
(National Highways – 45E & 220)
Collectorate Buildings, Theni.



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3. Balakrishnan

4. Thilakkumar

5. Vanaja

6. Kalpana

(Respondents 3 to 6 are bought on record
as the legal heirs of the deceased 1st
respondent vide order dated 25.10.2024)

... Respondents

Prayer in CMP(MD)No.1725 of 2023: Petition filed under Section 5 of the Limitation Act, to condone the delay of 1263 days in filing the CMA(MD)SR No. 67072 of 2022.

Prayer in CMA(MD)SR No.67072 of 2022: Civil Miscellaneous Appeal filed under Section 37(1) & 2 of Arbitration & Conciliation Act, 1996 praying to set aside the order in Arbitration O.P.No.49 of 2016 dated 23.01.2019 on the file of the Principal District and Sessions Judge, Theni.

For Petitioner	:	Mr.S.U.Srinivasan
For R2	:	Mr.M.Sarangan, Additional Government Pleader

C.M.P.(MD)No.1728 of 2023

The Project Director,
National Highways No.45E & 220,
National Highways Authority of India
Having his Office at Plot No.3,
Suriya Towers,
2nd Floor, 1st East Street,
K.K.Nagar (Near Muthuvelrajan Hospital)
Madurai - 625 020.



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Presently at No.1, Aishwaryam Heights
Indira Nagar,
1st Street Sennamanaickenpatti (PO)
Thadikombu road,
Dindigul - 624 004.

... Appellant

versus

1. V.Umapriya

2. The Special District Revenue Officer/
Competent Authority for Land Acquisition
(National Highways – 45E & 220)
Collectorate Buildings,
Theni.

... Respondents

Prayer in CMP(MD)No.1728 of 2023: Petition filed under Section 5 of the Limitation Act, to condone the delay of 1514 days in filing the CMA(MD)SR No. 67074 of 2022.

Prayer in CMA(MD)SR No.67074 of 2022: Civil Miscellaneous Appeal filed under Section 37(1) & 2 of Arbitration & Conciliation Act, 1996 praying to set aside the order in Arbitration O.P.No.85 of 2015 dated 28.04.2018 on the file of the Principal District and Sessions Judge, Theni.

For Petitioner	:	Mr.S.U.Srinivasan
For R1	:	Mr.R.Govindaraj
For R2	:	Mr.M.Sarangan, Additional Government Pleader



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C.M.P.(MD)No.1721 of 2023

The Project Director,
National Highways No.45E & 220,
National Highways Authority of India
Having his Office at Plot No.3,
Suriya Towers,
2nd Floor, 1st East Street,
K.K.Nagar (Near Muthuvelrajan Hospital)
Madurai - 625 020.
Presently at No.1, Aishwaryam Heights
Indira Nagar,
1st Street Sennamanaickenpatti (PO)
Thadikombu road,
Dindigul - 624 004.

... Appellant

versus

1. S.Kannan
2. The Special District Revenue Officer/
Competent Authority for Land Acquisition
(National Highways – 45E & 220)
Collectorate Buildings,
Theni.

... Respondents

Prayer in CMP(MD)No.1721 of 2023: Petition filed under Section 5 of the Limitation Act, to condone the delay of 1421 days in filing the CMA(MD)SR No. 67070 of 2022.

Prayer in CMA(MD)SR No.67070 of 2022: Civil Miscellaneous Appeal filed under Section 37(1) & 2 of Arbitration & Conciliation Act, 1996 praying to set aside the order in Arbitration O.P.No.24 of 2016 dated 26.06.2018 on the file of



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the Principal District and Sessions Judge, Theni.

For Petitioner : Mr.S.U.Srinivasan
For R2 : Mr.M.Sarangan,
Additional Government Pleader

C.M.P.(MD)No.1727 of 2023

The Project Director,
National Highways No.45E & 220,
National Highways Authority of India
Having his Office at Plot No.3,
Suriya Towers,
2nd Floor, 1st East Street,
K.K.Nagar (Near Muthuvelrajan Hospital)
Madurai - 625 020.
Presently at No.1, Aishwaryam Heights
Indira Nagar,
1st Street Sennamanaickenpatti (PO)
Thadikombu road,
Dindigul - 624 004.

... Appellant

versus

1. K.Ravindran
2. The Special District Revenue Officer/
Competent Authority for Land Acquisition
(National Highways – 45E & 220)
Collectorate Buildings,
Theni.

... Respondents

Prayer in CMP(MD)No.1727 of 2023: Petition filed under Section 5 of the



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Limitation Act, to condone the delay of 1440 days in filing the CMA(MD)SR No. 67073 of 2022.

Prayer in CMA(MD)SR No.67073 of 2022: Civil Miscellaneous Appeal filed under Section 37(1) & 2 of Arbitration & Conciliation Act, 1996 praying to set aside the order in Arbitration O.P.No.82 of 2015 dated 26.06.2018 on the file of the Principal District and Sessions Judge, Theni.

For Petitioner	:	Mr.S.U.Srinivasan
For R1	:	Mr.R.Govindarajan
For R2	:	Mr.M.Sarangan, Additional Government Pleader

COMMON ORDER

(Order of the Court was made by P.VELMURUGAN, J.)

These petitions have been filed to condone the delay in filing the above Civil Miscellaneous Appeals.

2. Since the issue is one and the same, all the matters are clubbed together and a common order is passed.



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3. This Court in a similar condone delay petition filed by the same petitioner with regard to the same issue in C.M.P.(MD)No.9180 of 2024 in C.M.A(MD)SR No.79016 of 2023, has dismissed the petition by observing as follows.

*"11. Each and every day of delay has to be explained. The petitioner has not given any reason as to why they have not filed the copy application in time and also why they have not filed the appeal even after obtaining the corrected copy of the order in time. Therefore, the delay has not been properly explained. In this regard, it is relevant to refer the case of the Hon'ble Supreme Court in **Government of Maharashtra (Water Resources Department) Rep. by Executive Engineer vs. Borse Brothers Engineers and Contractors Pvt. Ltd.**, reported in (2021)6 SCC 460, wherein it has been held that the delay of beyond 90 days is only an exception and not a rule. The relevant para 58 is extracted hereunder:-*

*"58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression "sufficient cause" is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. This **Court, in Basawaraj v. Land Acquisition Officer, (2013) 14 SCC 81, has held:***

9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be



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necessary to answer the purpose intended. Therefore, the word “sufficient” embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, “sufficient cause” means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party “has not acted diligently” or “remained inactive”. However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any “sufficient cause” from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee [AIR 1964 SC 1336] , Mata Din v. A. Narayanan [(1969) 2 SCC 770 : AIR 1970 SC 1953] , Parimal v. Veena [(2011) 3 SCC 545 : (2011) 2 SCC (Civ) 1 : AIR 2011 SC 1150] and Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai [(2012) 5 SCC 157 : (2012) 3 SCC (Civ) 24 : AIR 2012 SC 1629] .)

10. In Arjun Singh v. Mohindra Kumar [AIR 1964 SC 993] this Court explained the difference between a “good cause” and a



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“sufficient cause” and observed that every “sufficient cause” is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of “sufficient cause”.

11. The expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide Madanlal v. Shyamlal [(2002) 1 SCC 535 : AIR 2002 SC 100] and Ram Nath Sao v. Gobardhan Sao [(2002) 3 SCC 195 : AIR 2002 SC 1201] .”

12. In this case, the delay has not been properly explained and the reason also has not been given for delay in filing the copy application. Therefore, by relying the above said judgment, this Court finds that the petitioner has not made out the requirements that he has bona fide reason. Though the length of the delay is not the matter, but the reason is only the significance. If there is valid reason, the Court normally will not consider the length of the delay. If there is no reason, the Court could not consider the days of the delay. Though in this case, the delay in filing the appeal is 108 days, however, the petitioner has not given any particular about the delay and proper reason for the delay. Therefore, as held by the Hon'ble Supreme Court, the delay is only an exception and not a rule. Further, it is well settled proposition of law that at the time of considering the application for the delay, the Court need not go into depth about the merits of the case. The affidavit filed by the petitioner has spoken almost upto 13th para only about the proceedings and also the merit of the case and only in 14th para, mentioned about the delay, however,



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there is no valid and acceptable reason given for the delay. It is well settled that while deciding an application for condonation of delay, merits of the case cannot go into and what has to be seen that as to whether sufficient cause has been shown by the applicant for condoning the delay in filing the appeal before the Court. Therefore, under these circumstances, this Court is not satisfied with the reason stated in the accompanying affidavit. Hence, the present petition filed to condone the delay of 108 days in filing the appeal in CMA(MD)SR No.79016 of 2023, is dismissed. No costs."

4. Since the present petitions are also filed by the same petitioner to condone the delay in filing the above Civil Miscellaneous Appeals without any valid and acceptable reasons and since the issue is one and the same, we are inclined to dismiss these petitions on the same lines.

5. Accordingly, the present petititons are dismissed. No costs.

[P.V.,J.] [K.K.R.K.,J.]
25.10.2024

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NCC : Yes/No

Index : Yes / No

Internet : Yes



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To

- 1.The Principal District and Sessions Judge,
Theni.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VELMURUGAN, J.
and
K.K.RAMAKRISHNAN, J.

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