



W.A.(MD).No.2389 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.11.2024
DELIVERED ON: 03.12.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.(MD).No.2389 of 2024
and
C.M.P.(MD).No.16491 of 2024

1.The Commissioner,
Commissionerate of Land Administration,
Chepauk, Chennai.

2.The District Collector,
Kanyakumari District at Nagercoil.

3.The Tahsildar,
Killiyoor Taluk,
Kanyakumari District.

... Appellants/ Respondents

Vs.

Maryisabella

... Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 28.08.2024 made in W.P.(MD).No.21023 of 2022 by allowing this appeal.

PRAYER IN C.M.P(MD)No.16491 of 2024: Civil Miscellaneous Petition filed under Clause 151 of Code of Civil Procedure, praying to stay the operation of the order passed in W.P.(MD).No.21023 of 202, dated 28.08.2024.



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For Appellants : Mr.R.Baskaran
Additional Advocate General
Assisted by Mr.S.Shaji Bino
Special Government Pleader

For Respondent : Mr.K.P.Narayanakumar

JUDGMENT

(Judgment of the Court was made by A.D.MARIA CLETE,J.)

Heard both sides.

2. This Writ Appeal is preferred by the Revenue officials challenging the order of the learned Single Judge in W.P.(MD)No.21023 of 2022, dated 28.08.2024. The Writ Court directed the respondents to bifurcate an extent of 1 acre and 10 cents of land from Re.Sy.No.608/1, Kollencode Village, and issue a patta in favor of the writ petitioner. The appellants seek to set aside the said order, contending that the classification of the land as "Government Poramboke" was proper and the writ petitioner is not entitled to the relief sought.

3. For the sake of convenience, the parties are referred to as arrayed in the writ petition.

4. The brief facts of the case, necessary for the disposal of this appeal, are as follows: The petitioner claims to be the owner of landed property in old



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Survey No.2389/9, measuring 2 acres and 15 cents. The land was later bifurcated into R.S. Nos.608/1 and 608/2. Out of the total extent, 1 acre and 23 cents, along with other lands, is Government puramboke land, classified as *oor natham*, which led to interference in her possession during the early 1990s.

5. In response, the petitioner filed a civil suit, O.S.No.236 of 1992, seeking a declaration and injunction before the District Munsif Court, Kuzhithurai. An interim order of *status quo* was granted. Despite this, the respondents allegedly violated the *status quo* order, entering the suit property and cutting down 77 yielding coconut trees. Consequently, the petitioner filed another suit, O.S.No.52 of 1993, before the Sub-Court, Kuzhithurai, claiming damages of Rs.75,000/-.

6. Subsequently, the suit, O.S.No.236 of 1992, was transferred to the Sub-Court, Kuzhithurai, and renumbered as O.S.No.6 of 1996. Both suits O.S.No.6 of 1996 and O.S.No.52 of 1993 were contested by the respondents. Ultimately, the Sub-Court, Kuzhithurai, delivered a common judgment on 24.04.1997, decreeing both O.S.No.6 of 1996 and O.S.No.52 of 1993. The court awarded damages of Rs.35,000/- to the petitioner. The petitioner later realized the decree amount through execution petition E.P. No.93 of 2008.



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7. The respondents, after a delay of 11 years, 5 months, and 20 days, filed an appeal accompanied by an application under Section 5 of the Limitation Act seeking condonation of the delay in I.A.No.174 of 2009 before the District Court, Kanyakumari. They claimed the delay of four days in filing the appeal occurred because they only became aware of the decree upon receiving notice in the execution petition. However, the District Court, Kanyakumari, dismissed the condonation application on merits on 05.03.2010. Consequently, the decree passed by the Sub-Court, Kuzhithurai, in O.S.No.6 of 1996 attained finality.

8. Pursuant to the declaratory decree, the petitioner submitted a requisition for the issuance of a patta in her favour for 1 acre and 23 cents of land in S.No.608/1. When the respondents failed to act on her representation, the petitioner filed W.P.(MD)No.21023 of 2022 seeking a mandamus for reclassification of the disputed land and issuance of a patta. The Learned Single Judge allowed the writ petition, relying on the finality of the decrees and the State's failure to take timely action, prompting this appeal.

9. The appeal lacks merit. It is regrettable that the grounds raised in this appeal appear to indirectly challenge the original decree passed in O.S.No.6 of 1996. The appellants, having admittedly failed to file an appeal against the decree within the prescribed time, sought to file an appeal after an inordinate



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delay of eleven and a half years. This delay was accompanied by a condonation application that misleadingly portrayed the delay as only four days. In the affidavit supporting the condonation application, the appellants cited the Tsunami as one of the reasons for the delay. However, the suit was decreed on 24.04.1997, whereas the Tsunami occurred on 26.12.2004, demonstrating no causal connection between the two events.

10. This case exemplifies the lackadaisical approach of government officials in managing legal proceedings. Furthermore, it is concerning that the Law Officers representing the State have endorsed such an application in the Grounds of this Writ Appeal, which undermines the integrity of legal processes. It is indeed unfortunate, and it remains incomprehensible how the State has chosen to file this appeal, effectively seeking to convert this court into an appellate forum to challenge a decree passed by the Civil Court.

11. On the appellant's side, a point was raised regarding the Government's rights over the property. However, this submission cannot be entertained because right thing was not done within the stipulated time. Safeguarding Government properties demands the appellant's vigilance, like a sentinel guarding a fortress, for even a moment's lapse invites irreparable loss.



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12. The writ petitioner secured a favourable decree from the Civil Court on 24.04.1997. The appellant's application for condonation of delay in filing an appeal against the judgment and decree of the Civil Court was also dismissed on 05.03.2010, thereby rendering the Civil Court's judgment final. Despite this, the writ petitioner was compelled to initiate a second round of litigation to enforce the decree with the State having disregarded the decree of a competent civil court.

13. Thus, we find no justification to interfere with the order of the Learned Single Judge. Consequently, this appeal is liable to be dismissed. Although this case warrants the imposition of compensatory costs, we refrain from saddling the State exchequer, mindful that the burden of the official's lethargy should not fall upon the public coffers.

14. In the result, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(M.S.R.,J.) (A.D.M.C.,J.)
03.12.2024

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