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CMP.No.5018 of 2025
in
S.A.SR.No.6419 of 2024

T.V.THAMILSELVI, J.

This Petition has been filed to condone the delay of 4678 days in filing the above S.A.SR.No.6419 of 2024.

2. Heard the learned counsel for the appellants and the learned counsel for the respondent. The material available on record has been perused.

3. The learned counsel for the respondent raised strong objections, stating that the reason for the delay has not been properly explained and there is no sufficient cause to condone it. In support of his argument, he relied on the authority laid down in the case of *Hon'ble Supreme Court, State of Madhya Pradesh Vs. Ramkumar Choudhary, SLP (c) Diary NO.48636 of 2024*, as well as the counter-affidavit filed by the respondent.

4. Considering the entire facts and circumstances, the respondent / plaintiff submitted a sale deed claiming title over the property in S.No.272/3, measuring 1 acre and 42 cents, asserting that the suit property absolutely belongs to him by way of purchase.

5. Before the trial court, the plaintiff filed a suit, O.S.No.246 of 2000,



before the Additional District Munsif Court, Ariyalur, against the District Collector and the Tahsildar and obtained an ex-parte decree on 10.11.2000.

He claimed ownership over the property as though he was the absolute owner. However, the decree was later set aside after the state filed a written statement contesting the claim. The state asserted that S.No.272/3 does not belong to the plaintiff and is classified as *Mayana Puramboke* (burial ground land).

6. The learned trial judge framed an issue on whether the defendants could proceed with the case without setting aside the ex-parte decree. At an earlier stage, the plaintiff had also filed O.S.No.185 of 1987, claiming absolute ownership of S.No.272/3 by producing a sale deed in his name. However, in that case, the District Collector, Tiruchi, and the *Ooratchi Mandram Thalaivar* (Village Council Head) remained ex-parte, and the plaintiff obtained an ex-parte decree declaring himself as the absolute owner of the property.

7. Subsequently, based on the decree in O.S.No.185 of 1987, the same plaintiff filed another suit, O.S.No.246 of 2000, seeking a mandatory injunction directing the District Collector and the Tahsildar, Ariyalur, to



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issue a patta for the suit property by changing its classification from *puramboke* to *ryotwari*. In this case, the Government Pleader appeared on behalf of the defendants and contested the claim, arguing that the plaintiff was the owner of S.No.272/1, while S.No.272/3, as described in the plaint schedule, was *Mayana Puramboke* and not *patta* land.

8. Upon hearing both sides, the learned trial judge framed issues and passed an order. One of the issues raised was whether the defendants could proceed with the case without setting aside the decree in O.S.No.185 of 1987. After considering all the issues, the learned trial judge directed the revenue officials to issue a patta, holding that the decree in O.S.No.185 of 1987 was still in force in favour of the plaintiff.

9. Challenging this decision, the state filed an appeal (A.S.No.112 of 2008), but the first appellate court confirmed the trial court's findings and dismissed the appeal on 20.12.2010. The learned first appellate judge also held that the suit property belonged to the plaintiff and directed the authorities to remove the classification of *Mayana Puramboke* and issue a patta in favour of the plaintiff.

10. Now, challenging the above findings, the present appeal has been



preferred by the District Collector. However, there is a delay of 4678 days.

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11. The learned Government Pleader submitted that the earlier officials had not followed the proceedings properly and had not taken steps to file an appeal in time. Due to administrative changes and a lack of communication, the appeal was not filed within the prescribed period.

12. On the other hand, the learned counsel for the respondent strongly objected, arguing that the reason for the delay has not been sufficiently explained by the petitioners. He relied on the legal principles laid down by the Hon'ble Supreme Court, contending that the delay ought not to be condoned.

13. While the proposition laid down by the Hon'ble Supreme Court is well accepted, considering the facts of this case, it is evident that the failure to file the appeal in time was due to administrative changes rather than willful negligence on the part of the petitioners.

14. Furthermore, from the record, it is evident that the plaintiff obtained an ex-parte decree by submitting false claims before the trial court. He originally purchased property in S.No.272/1 but later claimed title over S.No.272/3, which is classified as *Mayana Puramboke* and belongs to the



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state as per revenue records. Obtaining an ex-parte decree for S.No.272/3, over which he had no right or title, and subsequently filing a suit to direct the authorities to issue a patta is an abuse of the legal process. This amounts to fraud upon the court.

15. Since the plaintiff has made a false claim and misled the court, it is a settled legal proposition that fraud can be challenged at any stage of the proceedings. If an opportunity is not given to the Government Pleader to contest the appeal, it will cause serious prejudice to the state.

16. For these reasons, this court is inclined to condone the delay.

17. Accordingly, this Civil Miscellaneous Petition is allowed.

18. The Registry is directed to list the Second Appeal, after numbering it, if otherwise in order, on 26.03.2025.

17.03.2025

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