



C.R.P.No.1021 of 2025

01N THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 13.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.1021 of 2025

J.Saroja

... Petitioner

Vs

1. The Special District Revenue Officer (LA)
N.H.68, Competent Authority,
Door No.3B/8, Ram Nagar Road,
Swarnapuri (2nd Gate), Salem – 636 004.
2. The National Highways Authority of India,
Rep. by its Chief General Manager,
Regional Office, NHAI, Sri Tower, 3rd Floor,
DP-34, SP Industrial Estate,
Guindy, Chennai – 32.

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to direct the Principal District Court, Salem, to number the interim applications filed for extension of time and restoration of IA Sr.No.9221 of 2024 in Arb.OP No.102 of 2018 and to decide the same on merits in accordance with law.

For Petitioner : Mr.D.Muthukumar
for M/s.Paul and Paul &
J.Hudson Samuel Partners

For R1 : Mr.P.Gurunathan
Additional Government Pleader (C.S)

ORDER



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The Civil Revision Petition has been filed seeking to direct the Principal District Court, Salem, to number the application filed for extension of time and restoration of I.A.SR.No.9221 of 2024 in Arb.O.P.No.102 of 2018 and decide the same on merits in accordance with law.

2. The brief facts of the case are as follows :-

2.1. The petitioner had filed Arb.O.P.No.102 of 2018 before the Principal District Court, Salem and since, the petitioner did not appear before the Court, the petition came to be dismissed for default on 01.10.2021.

2.2. The petitioner, thereafter, filed a petition in I.A.No.1 of 2023 seeking to condone the delay of 381 days in filing the petition to restore the dismissal order passed in Arb.O.P.No.102 of 2018. The learned Principal District Judge, Salem, on 25.04.2024, had allowed the petition on payment of cost of Rs.1000/- to the respondent on or before 11.06.2024 and also held that failing which, the petition shall stand dismissed and the matter was posted on 12.06.2024. On 12.06.2024, since the petitioner had not complied with the condition, the learned Judge had dismissed the petition.

2.3. Thereafter, the petitioner had filed a petition in I.A.SR.No.9221



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of 2024 under Sections 148 & 151 CPC seeking to grant extension of time for payment of Rs.1000/- to the respondents (Rs.500 to each respondent). However, the petition was returned on 06.08.2024 stating that “As per the Authority reported in 2008 CTC Vol No.I page No.47, how this petition is maintainable”.

2.4. The petitioner had represented the same on 20.08.2024 along with the citation reported in *2018 (2) MWN (civil) 419 of MHC* and *2008 (1) CTC 47*. However, the petition had been once again returned on 30.09.2024 stating that “Previous order of return dated 06.08.2024 holds good”. Challenging the order of return, the present Civil Revision Petition has been filed.

3. Learned counsel appearing for the petitioner submitted that the amendment made in Section 148 of CPC affects the power of the court to enlarge time that may have been fixed or granted by the court for the doing of any act prescribed or allowed by the code. He further submitted that Section 151 of CPC gives power to the court to grant extension beyond maximum of 30 days, if the act could not be performed within 30 days for reasons beyond the control of the party. He also submitted that it is not a case where the time for doing an act has been prescribed under the provisions of the Limitation Act which cannot be extended



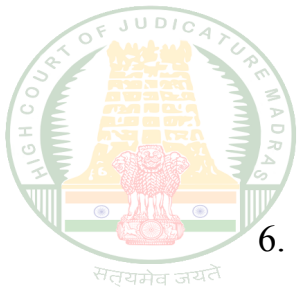
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either under Section 148 or Section 151 and it is only a case where the time is fixed

or granted by the court for performance of an act prescribed or allowed by the court. In such circumstances, the court does not become *functus officio* and it has got powers to extend the time granted and there is no necessity for filing an appeal. He further submitted that the non grant of extension beyond 30 days would amount of failure of justice and the learned Judge had not properly appreciate the judgment and had returned the papers and it is not proper. Hence, he prayed to set aside the order of return.

4. In support of his contention, the learned counsel for the petitioner relied on the decision of the Hon'ble Apex Court in *Salem Advocate Bar Association, T.N vs. Union of India* reported in (2005) 6 SCC 344.

5. Heard the learned counsel for the petitioner and perused the materials available on record. Further, since the order of return is between the petitioner and the court, this Court is of the opinion that notice is not necessary to be given to the respondents.



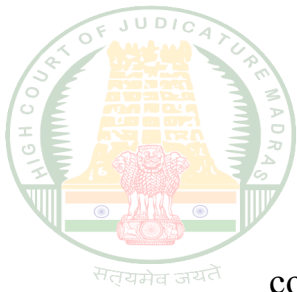
6. The petitioner has filed a petition in I.A.SR.No.9221 of 2024 under Section 148 and 151 of CPC seeking to extend the time for complying with the conditional order passed in I.A.No.1 of 2023, whereas, the learned Judge had returned the papers stating that the petition is not maintainable.

7. It is useful to refer to the decision rendered by the Hon'ble Apex Court in *Salem Advocate Bar Association, T.N vs. Union of India* reported in (2005) 6 SCC

344. The relevant paragraphs are extracted hereunder :-

“Section 148

41. The amendment made in Section 148 affects the power of the court to enlarge time that may have been fixed or granted by the court for the doing of any act prescribed or allowed by the Code. The amendment provides that the period shall not exceed 30 days in total. Before amendment, there was no such restriction of time. Whether the court has no inherent power to extend the time beyond 30 days is the question. We have no doubt that the upper limit fixed in Section 148 cannot take away the inherent power of the court to pass orders as may be necessary for the ends of justice or to prevent abuse of process of the court. The rigid operation of the section would lead to absurdity. Section 151 has, therefore, to be allowed to operate fully. Extension beyond maximum of 30 days, thus, can be permitted if the act could not be performed within 30 days for reasons beyond the control of the party. We are not dealing with a case where time for doing an act has been prescribed under the provisions of the Limitation Act which cannot be extended either under Section 148 or Section 151. We are dealing with a case where the time is fixed or granted by the court for performance of an act prescribed or allowed by the court.



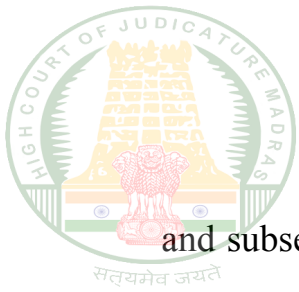
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42. In *Mahanth Ram Das v. Ganga Das* this Court considered a case where an order was passed by the Court that if the court fee was not paid by a particular day, the suit shall stand dismissed. It was a self-operating order leading to dismissal of the suit. The party's application filed under Sections 148 and 151 of the Code for extension of time was dismissed. Allowing the appeal, it was observed: (SCR pp. 767-68)

"How undesirable it is to fix time peremptorily for a future happening which leaves the Court powerless to deal with events that might arise in between, it is not necessary to decide in this appeal. These orders turn out often enough to be inexpedient. Such procedural orders, though peremptory (conditional decrees apart) are, in essence, in terrorem, so that dilatory litigants might put themselves in order and avoid delay. They do not, however, completely estop a court from taking note of events and circumstances which happen within the time fixed. For example, it cannot be said that, if the appellant had started with the full money ordered to be paid and came well in time but was set upon and robbed by thieves on the day previous, he could not ask for extension of time, or that the Court was powerless to extend it. Such orders are not like the law of the Medes and the Persians."

43. There can be many cases where non-grant of extension beyond 30 days would amount to failure of justice. The object of the Code is not to promote failure of justice. Section 148, therefore, deserves to be read down to mean that where sufficient cause exists or events are beyond the control of a party, the court would have inherent power to extend time beyond 30 days."

8. The above decision has been followed by the Hon'ble Division Bench of this Court in *Gowri Ammal vs. Murugan and others* reported in 2006 (3) CTC 418



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and subsequently, followed by the single Bench of this Court reported in 2008 (1)

WEB COPY CTC 47 (*Pichammal and another vs. Annamalai and another*) and in 2018 (2)

MWN (Civil) 419 (Ramasamy (Died) Amirthalingam and Another vs. Banumathi and others), wherein, this Court held that the court has got power to entertain the application filed under Section 148 & 151 CPC to consider the merits of the matter for condoning the delay or for extending the time.

9. As stated above, in this case, the petition has been filed under Sections 148 & 151 of CPC seeking for extension of time and the trial court ought not to have returned the petition holding that the petition is not maintainable. The object of the court is not to promote failure of justice and therefore, no prejudice would be caused to the respondents in extending the time and permitting the petitioner to put forth her case before the court concerned, since in the present case, the petitioner's land has been acquired for the purpose of expansion of National Highways.

10. In view of the above, this Civil Revision Petition stands allowed and thereby, the order of return made in IA Sr.No.9221 of 2024 in Arb.OP No.102 of



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2018 is hereby set aside and the petitioner is directed to represent the same before

the court concerned and the court shall number the same and decide it in accordance with law. No costs.

13.03.2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Principal District Court, Salem.

2. The Section Officer,
VR Section, High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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