



CRP NPD.No.4071 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 15.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP [NPD] No.4071 of 2024 & CMP.No.22402 of 2024

1. Shireen Isabella Gnanamani Jayachandran
2. Austin Wilson Jayakumar Wilson
3. Sheila Doren Selvamani Davi
4. James Thirukumar Vivian Wilson
5. Pamelanoren Jayamani Clarke
6. Floyd Dilip Kumar Wilson

. . . Petitioners

Versus

1. G.R.Anthony
2. Mr.Louisa
3. Timonthy Philips
4. Dorthy
5. G.R.Rosyline
6. Stella Manonmani Wilson
7. Alukas Joseph Thamas
8. Rejendra Rao

. . . Respondents

PRAYER : Petition filed under Section 115 of Code of Civil Procedure to set aside the Order and decretal Order made in I.A.No.1 of 2023 in



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WEB COPY A.S.Sr.No.11139 of 2023 dated 05.02.2024 on the file of the I Additional Judge, City Civil Court, Chennai and thereby allow the revision.

For petitioners : Mr.R.Thiagarajan

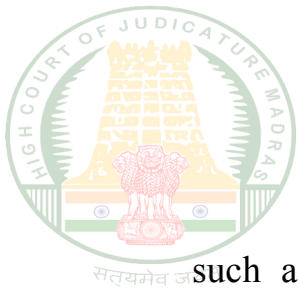
For respondents : Mrs.A.L.Ganthimathi, Senior Counsel
for Mr.L.Panimuthu – R1 to R4

Mr.R.Gowthama Narayanan – R7

ORDER

Challenge has been made to the Order of the trial Court allowing the application to condone the delay of 2634 days delay in filing an appeal against the judgment and decree dated 06.10.2016 in O.S.No.1452 of 2011 on the file of the II Assistant City Civil Court, Chennai, in the present Civil Revision Petition.

2. The suit in O.S.No.1452 of 2011 has been filed for mandatory injunction. The said suit was dismissed by a judgment and decree dated 06.10.2016. However, immediately, an appeal has not been filed and the appeal has been filed with a huge delay of 2634 days. The reason assigned for



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such a huge delay is that though the suit was dismissed on 26.10.2016, certified copies have been obtained on 07.04.2017. It is his contention that challenge has not been made immediately as it is only a suit for injunction. According to the petitioner, since the patta is not in their name and the revenue records also not in their name and the revenue records have not been obtained from the authorities, the appeal has not been filed. Only when they met their counsel for filing a declaration suit, it is advised by the counsel that unless an appeal has been filed as against the decree and judgment, the same will operate as resjudicata in the subsequent suit. Therefore, there is a delay of 2634 days in filing the appeal. The trial Court has allowed the application. Challenging the same, the present revision petition has been filed.

3. It is the contention of the learned counsel appearing for the petitioner that there is no sufficient cause shown to condone such a huge delay. The trial Court, considering the fact that the revenue records were required for filing appeal, the revenue records were required for filing a suit for declaration, has allowed the application. At any event, the petitioner himself is not entitled to



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file an appeal. The appeal came to be filed with a huge delay on the advice of his counsel.

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4. Whereas, it is the contention of the learned counsel appearing for the respondents that only due to non obtaining of revenue records appeal is could not be filed. He would further submit that substantial right of the parties cannot be taken away on technical grounds.

5. I have perused entire materials. Of course, the substantive right of the parties cannot be taken way on technical grounds. As far as the length of the delay is concerned, it is not a matter. At the same time, there must be some acceptable and bonafide reason on the side of the parties who seeks to condone such a huge delay. The very reading of the affidavit indicate that the petitioner has given up the right of appeal on the ground that it is only a suit for bare injunction. Only when they intend to file a suit for declaration, on the advice of the lawyer, with a delay of 2634 days this application has been filed.



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These facts clearly indicate that the party has not bonafidely come up with application to prosecute the appeal. If really the party had substantive right to be established, immediately, they ought to have filed an appeal. Whereas, they has slept over for more than 8 years and has come up with this application in a lethargic manner.

6. In *Basawaraj and another v. Special Land Acquisition Officer [2013 (4) SCC 81]*, the Apex Court has held that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that the expression “sufficient cause” cannot be liberally interpreted if negligence, inaction or lack of *bona fides* is attributed to the party. It is further observed therein that, even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute and in case a party has acted with negligence, lack of *bona fides* or there is inaction, then there cannot be any justified ground for condoning the delay even by imposing conditions. It is further observed that each application for condonation of delay has to be decided within the framework



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laid down by the Hon'ble Supreme Court. It is further observed that, if Courts start condoning delay where no sufficient cause is made out imposing conditions, then that would amount to violation of statutory principles and showing utter disregard to legislature. The said judgment has also been followed by the Hon'ble Supreme Court in ***Majji Sannemma @ Sanyasirao v. Reddy Sridevi and others [Civil Appeal No.7696 of 2021, dated 16.12.2021]***.

7. Further, the Hon'ble Supreme Court in ***Thirunagalingam v. Lingeswaran and another [Unnumbered Civil Appeal arising out of SLP (C) No.17575 of 2023, dated 13.05.2025]***, has held as follows :

“31.It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.

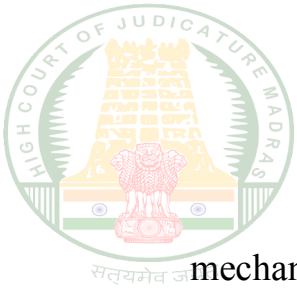


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32.Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.

33.Therefore, in the case at hand, once it has been established that the reasons provided for condoning the delay in the application filed are not sufficient, we are not inclined to go into the merits of the contentions raised by the learned counsel of Respondents regarding Section 14 of the Limitation Act, 1963.”

8. Therefore, without assigning *bona fide* and justifiable reasons, as a matter of right, the petitioner cannot seek indulgence of this Court for his negligence in not prosecuting the matter. Having slept over for more than 8 years and now he cannot seek to unsettle the settled issues. Considering the above facts and circumstances, this Court is of the view that the trial Court has



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mechanically allowed this application despite the fact that there is no sufficient cause for condoning such a huge delay.

9. Accordingly, this Civil Revision Petition is allowed and the Appeal Suit in A.S.No.49 of 2024 on the file of the XX Additional City Civil Court, Chennai is ordered to be struck off. No costs. Consequently, connected miscellaneous petition is closed.

15.07.2025

Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

To,

1. The I Additional Judge,
City Civil Court, Chennai.
2. The XX Additional Judge,
City Civil Court, Chennai.



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N. SATHISH KUMAR, J.

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