



C.R.P.No.3085 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2025

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.3085 of 2025

Late Govindharaj

1.Sasikala

2.Sandhiya

3.Vigneshwaran

4.Gurubaran

... Petitioners

Vs.

The Tahsildar

Adi Dravidar Welfare Department

Aroor

... Respondent

(Cause-title accepted vide Court Order dated 02.07.2025

made in CMP.No.14058 of 2025 in CRP.SR.No.51533 of 2025

by NSKJ)

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 04.10.2024 passed in I.A.No.1 of 2019 in CMA. (LA).No.16 of 2024 on the file of the learned Sub Judge, Uthangarai.

For Petitioners : Mr.K.Elango
for M/s.Krishna Law Associates

For Respondent : Mr.T.Arun Kumar
Additional Government Pleader



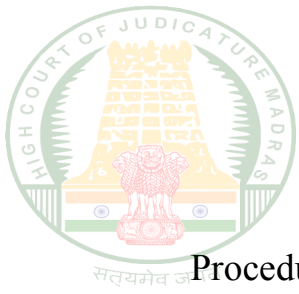
C.R.P.No.3085 of 2025

ORDER

WEB COPY

The present petition has been filed under Article 227 of the Constitution of India impugning the order dated 04.10.2024 passed by the learned Sub Judge, Uthangarai. By the impugned order, the application under Section 5 of the Limitation Act was filed by the revision petitioners seeking condonation of delay in filing the restoration petition under Order XLI Rule 19 of Code of Civil Procedure.

2. Originally, the petitioners' land admeasuring 0.61.5 hectare at Survey No.75/3, Giddampatti Village, Uthangarai Taluk was acquired by the respondent and a sum of Rs.4 lakh was awarded. The first petitioner's husband and the father of the other petitioners namely Govindharaj had filed CMA.(LA).No.16 of 2004 seeking enhancement of compensation. During the proceedings, Govindharaj had died and application for filed for impleading themselves and that was pending. During the year 2014, they came to know about that the said appeal was dismissed for default on 03.08.2019, hence, they filed an application in I.A.No.1 of 2019 on 14.11.2014 under Section 5 of the Limitation Act for condonation of delay in filing the restoration petition under Order XLI Rule 19 of Code of Civil



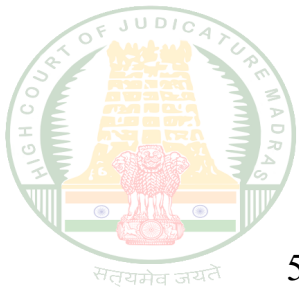
C.R.P.No.3085 of 2025

WEB COPY

Procedure. In the said application, it is the contention of the revision petitioners the first petitioner was ill and the other petitioners were young, that apart, the delay was partly due to their lawyer, therefore, there was a delay of 1898 days in filing the restoration application. The said application was opposed by the respondent on the ground that to substantiate that the first petitioner was ill, no documents whatsoever placed before the Court and each day's delay has not been explained by the petitioners. The Trial Court had dismissed the application vide order dated 04.10.2024. Challenging the same, the present revision has been filed.

3. The main contention of the learned counsel for the petitioner is that first petitioner is poor and ill and the delay was partly due to their counsel, thus, they could not appear before the Court and therefore, the order has been passed. Hence, seeks for liberal approach.

4. The learned counsel for the respondent submitted that the revision petitioners have not explained each day's delay, hence, seeking for dismissing this revision.



C.R.P.No.3085 of 2025

WEB COPY

5. Heard both sides and perused the materials placed on record.

6. Admittedly, the petitioners' land admeasuring 0.61.5 hectare at Survey No.75/3, Giddampatti Village, Uthangarai Taluk was acquired by the respondent and a sum of Rs.4 lakh was awarded. Aggrieved by the award, The first petitioner's husband and the father of the other petitioners namely Govindharaj had filed CMA.(LA).No.16 of 2004 seeking enhancement of compensation. The said Govindharaj had died on 18.07.2008 and the revision petitioners being the legal heirs did not proceed with the appeal and the said appeal was dismissed for default on 03.08.2009.

7. The reason assigned by the petitioners is that the first petitioner was ill and the counsel has not informed about the cases status. No doubt, merely entrusting case to an advocate, the litigant cannot contend that the responsibility of the case lies only with the advocate and he his absolved from pursuing the mater vigilantly. The litigant should be vigilant in pursuing and monitoring the case, therefore, mere blaming lawyer will not help the litigant in condoning the delay. But, at the same time, while



C.R.P.No.3085 of 2025

WEB COPY

deciding the application under Section 5 of the Limitation Act, the fact remains that every case has to be seen with respect to conduct of the parties, their background and nature of the claim.

8. Mere negligent or mistake on the party is the order of the day. However, making false affidavit has become routine affairs of the irresponsible counsel, therefore, the substantive right of the party cannot be taken away. Such view of the matter, substantive right cannot be taken away merely based on negligence on the part of the parties in a matter relating to acquisition of the lands of the poor land losers, particularly when the claimants are from the rural background and rustic villagers, their right cannot be curtailed merely on the basis of negligence on their own part also.

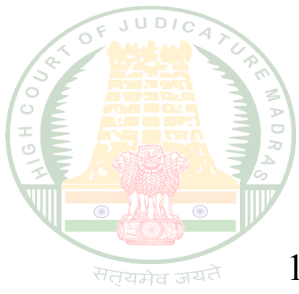
9. The Hon'ble Apex Court in the case of *Robin Thapa vs. Rohit Dora* reported in (2019) 7 SCC 359 held that a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default, either of the plaintiff or the defendant. The cause of justice does require that as far as possible, adjudication be done on merits.



WEB COPY

10. That apart, it is relevant to note that the Court should be in liberal in condoning the delay in a matter relating to acquisition of the lands of the poor and losers. As per the dictum of the Hon'ble Supreme Court in the case of *Tukaram Kana Joshi and Others vs. Maharashtra Industrial Development Corporation & Others* reported in 2013 1 SCC 353, deprivation of adequate compensation of an immovable property is a clear violation of Article 21 of the Indian Constitution. In a welfare State, statutory authorities are bound, not only to pay adequate compensation but there is also a legal obligation upon them to rehabilitate land losers. For better appreciation, the relevant paragraph of the said judgment is extracted below:

“ 17. Depriving the appellants of their immovable properties was a clear violation of Article 21 of the Constitution. In a welfare State, statutory authorities are bound, not only to pay adequate compensation, but there is also a legal obligation upon them to rehabilitate such persons. The non-fulfilment of their obligations would tantamount to forcing the said uprooted persons to become vagabonds or to indulge in anti-national activities as such sentiments would be born in them on account of such ill-treatment. Therefore, it is not permissible for any welfare State to uproot a person and deprive him of his fundamental/constitutional/human rights, under the garb of industrial development.”



C.R.P.No.3085 of 2025

WEB COPY

11. In view of the above, this Court is of the above in order to give one more opportunity to the petitioners/claimants to agitate their right in respect of enhancement of compensation is inclined to set aside the order of the Trial Court and the same is hereby set aside.

12. Accordingly, this revision stands allowed. No costs. It is made clear that if at all the petitioners succeed in the appeal for enhancement of compensation, the Trial Court shall take note of the long delay of 1898 days in filing the restoration petition and interest for the period shall not be ordered for that period alone.

22.07.2025

dhk

Internet : Yes/No

Internet : Yes/No

To

1.The Sub Judge, Uthangarai

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



WEB COPY



C.R.P.No.3085 of 2025

N. SATHISH KUMAR, J.

dhk

C.R.P.No.3085 of 2025

22.07.2025