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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.P(MD)No.7773 of 2025
in
C.R.P.(MD)No.SR 67422 of 2022

1.The District Collector,
Kanyakumari District at Nagercoil.

2.The Tasildar,
Vilavancode Taluk,
Kanyakumari District.

3.The Village Officer,
Kollencode Village,
Kollencode, Kanyakumari District.

... Petitioners

Vs.

1.Mary Isabella

2.Somasundara Lingam,
VAO, Mecode Village.

... Respondents

PRAYER IN C.M.P.(MD)No.7773 of 2025: Civil Miscellaneous Petition - filed under Section 5 of the Limitation Act, to condone the delay of 3825 days in filing the Civil Revision Petition against the order passed in I.A.No.236 of 2009 in A.S.(SR) No.4936 of 2009 dated 08.02.2012 on the file of the District Court, Kanyakumari at Nagercoil.



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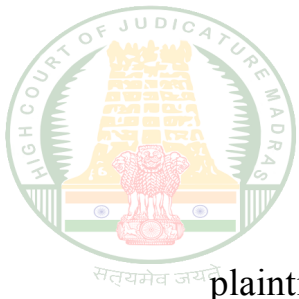
PRAYER in C.R.P.(MD)No.SR 67422 of 2022: Civil Revision Petition - filed under Section 227 of the Constitution of India, to set aside the order passed in I.A.No.236 of 2009 in A.S.(SR)No.4936 of 2009 dated 08.02.2012 on the file of the District Court, Kanyakumari at Nagercoil.

For Petitioners : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.B.Saravanan
Additional Government Pleader
For R1 : Mr.K.P.Narayanakumar

ORDER

This Civil Miscellaneous Petition is filed seeking to condone the delay of 3825 days in filing the Civil Revision Petition as against the order passed in I.A.No.236 of 2009 in A.S.SR No.4936 of 2009 dated 08.02.2012 on the file of the District Court, Kanyakumari at Nagercoil.

2.The first respondent/plaintiff filed a suit in O.S.No.6 of 1996 for declaring title and possession of the plaintiff over the plaint schedule property and for permanent injunction restraining the petitioners/defendants from entering into the plaint schedule property or disturbing the possession of the



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plaintiff. The suit was decreed in favour of the plaintiff. Aggrieved by the same, the petitioners herein filed an appeal in A.S.SR No.4639 of 2009 with the delay of 4179 days in filing the first appeal. The lower Appellate Court arrived at a conclusion that the delay was not properly explained, thereby, dismissed the petition filed by the petitioners. Challenging the same, the present Civil Revision Petition is filed with the delay of delay of 3825 days.

3.The learned Additional Advocate General appearing for the petitioners submits that the first respondent/plaintiff filed a declaration suit as against the Government in respect of Survey No.2389/9 and corresponding Survey Nos.608/1 and 608/2. The total extent of the subject property is two acres. However as per 'A' Register, which is the permanent register maintained by the Government, the property in Survey No.608/1 is classified as Government Poromboke land and the property in Survey no.608/2 is classified as private land. The petitioners /Government have no grievance in allotting the land in Survey No.608/2, which is a private property. However, the claim of the plaintiffs with regard to the property in Survey No.608/1 is not permissible, since the land is classified as Government poromboke land. On that sole ground, the appeal is filed. Since the said appeal was refused to



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be taken on file, the present Civil Revision Petition is filed with delay.

However, the said delay is neither wanton nor willful. The delay was occurred only due to administrative reasons. Unless the delay is condoned, the petitioners/Government will be put into irreparable hardship. Hence, he prayed for appropriate orders.

4.Per contra, the learned counsel for the first respondent/plaintiff would submit that initially, the first respondent/plaintiff filed the suit in O.S.No.236 of 1992 before the District Munsif Court, Kuzhithurai and subsequently, it was transferred to the file of the Sub Court, Kuzhithurai and renumbered as O.S.No.6 of 1996. Further, the trial Court earlier granted an interim order of status quo. Despite the interim orders granted by the trail Court, the petitioners/ Government trespassed into the suit schedule property and cut down the trees. Thereby, another suit in O.S.No.52 of 1993 was filed by the plaintiff on the file of the Sub Court, Kuzhithurai claiming damages as against the petitioners/Government and both the suits were clubbed together and disposed by way of common judgment and decree granting declaration in favour of the plaintiff and for compensation. For payment of compensation awarded by the trial Court in O.S.No.52 of 1993, the plaintiff filed execution

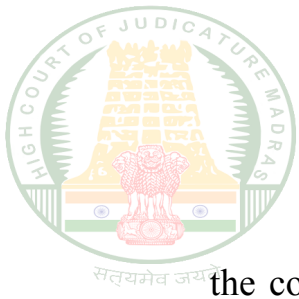


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petition in E.P.No.93 of 2008. The same was allowed as against the petitioners/Government. Challenging the execution proceedings, the petitioners/Government filed a petition in C.R.P.(MD)No.1732 of 2009, in which this Court, has passed an interim order directing the petitioners to pay the decree amount. Pursuant to the order passed by this Court, the compensation amount was deposited by the petitioners and the same was withdrawn by the plaintiff. The plaintiff claims that the decree passed by the trial Court with regard to damages confers title of the plaintiff over the suit schedule property and the said decree was confirmed by payment of compensation, the same cannot be challenged before the lower Appellate Court. Hence, he prays for appropriate orders.

5.Considered the rival submissions made on either side and perused the materials placed on record.

6.Admittedly, the suits filed by the first respondent/plaintiff as against the petitioners were decreed, wherein the petitioners were directed to pay the compensation to the plaintiff/first respondent. The petitioners have also deposited the said amount, and the plaintiff also withdrew the same. When



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the compensation amount awarded by the trial Court in the suit filed by the plaintiff claiming damages is fulfilled by payment and when the plaintiff receives the amount, the decree is considered as satisfied. Once the decree passed by the trial Court with regard to damages confers title of the plaintiff over the suit schedule property and was confirmed by payment of compensation, the said decree cannot be challenged by way of appeal.

7. Further, the appeal was preferred with the delay of 4179 days. There was no proper and satisfactory reason for such huge delay. Even in preferring this Civil Revision Petition also there is a delay of 3825 days. Such an inordinate delay cannot be condoned mechanically without any proper reasons. Therefore, this Court is not inclined to interfere with the order of the trial Court.

8. The plaintiff obtained the decree to an extent of 2 acres. In order to do substantive justice, the decree made by the trial Court is modified to the effect that if the entire extent as per the judgment and decree of the trial Court is available in Survey No.608/2, the Government shall give patta in favour of the plaintiff and other purchasers, who have purchased the property from the



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first respondent/plaintiff in Survey No.608/2. If not, liberty is granted to the petitioners to workout the remedy before the execution Court in accordance with law.

9. With the above said modification, this Civil Miscellaneous Petition is dismissed. Consequently, the Civil Revision Petition is also rejected at the SR stage itself. No costs.

12.08.2025

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

1. The District Court, Kanyakumari at Nagercoil.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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