



CMP(MD) NO. 15865 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.02.2025

Pronounced on : 28.03.2025

CORAM

THE HONOURABLE MR JUSTICE P.VADAMALAI

CMP(MD) NO. 15865 of 2024

IN

AS(MD)SR.NO. 73248 of 2024

The Special Tahsildar
Land Acquisition, Thoothukudi,
Office at Thoothukudi - 8.

Petitioner

Vs.

A.Sethuramalingam Chettiar (Died)

1) Mohan @ Arumugam
S/o.A.Sethuramalingam Chettiar,
Door No.125, South Bazzar,
Kovilpatti and another.

Respondent(s)

For Petitioner : Mr.S.P.Maharajan
Special Government Pleader

For Respondents : Mrs. P.Jessi Jeeva Priya

ORDER

This Civil Miscellaneous Petition is filed to condone the delay of 2001 days in filing the Appeal Suit against the order, dated 10.09.2018 passed in L.A.O.P.No.1 of



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2001 on the file of the Land Acquisition Claims Tribunal / Sub Court, Thoothukudi.

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2. Brief Facts of the case:

The petitioner acquired a total extent of 120.07 acres in Sankaraperi Village of Tuticorin Taluk for the construction of houses under Neighbourhood Scheme for the Tamil Nadu Housing Board in the year 1985. Out of the said land, the respondents' land to an extent of 12 cents situated in S.No.132/3C1 was also acquired. The petitioner has fixed the value of the acquired land at Rs.200/- per cent and accordingly award No.2/88, dated 29.07.1988 has been passed. Not satisfied with the said award, the respondents made an objection. Hence, the matter was referred U/s.18 of L.A. Act to the Sub Court, Thoothukudi and the same was taken on file as L.A.O.P.No.1 of 2001. After hearing both sides, the learned Sub Judge, Thoothukudi has fixed enhanced compensation at Rs.3,000/- and passed the order, dated 10.09.2018.

3. Aggrieved by the order, dated 10.09.2018 passed in L.A.O.P.No.1 of 2001 on the file Sub Court, Thoothukudi, the petitioner preferred the appeal with the petition along with an affidavit to condone the delay of 2001 days in filing the appeal. The respondents have objected the petition.



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4. The learned counsel for the petitioner has submitted that the respondents have filed the petition in I.A.No.1 of 2019 U/s.151, 152, 153 of CPC, seeking rectification of error occurred in the judgment and decree passed in L.A.O.P.No.1 of 2001 and after contest the petition was dismissed on 28.02.2024. The petitioner has to prefer the appeal on or before 10.01.2019, but the petitioner was waiting for the outcome of I.A.No.1/2019 filed by the respondents. Then, the petitioner submitted the papers for getting legal opinion. In the meantime most of the officials were tagged with general election related work, the appeal could not be filed within time, hence, there occurred 2001 days delay. The public money would not be given under the wrong fixation of market value. The petitioner has a good chance of success in appeal. The learned counsel further submitted that if the delay is condoned in preferring the appeal, the matter will be settled and also the petitioner is ready for terms.

5. Per contra, the learned counsel for the respondents filed a counter and objected that originally the award passed by the petitioner is on 29.07.1988 and the matter was referred and taken on file as L.A.O.P.No.1 of 2001. The Sub Court passed the award on 10.09.2018 fixing the enhanced value at Rs.3,000/- and thereafter, the respondents have filed the execution proceedings in E.P.No.1/2019. In the meantime,

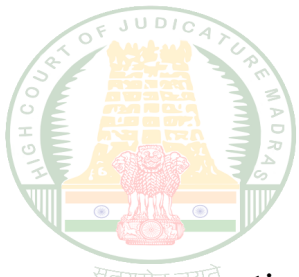


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the original owner Sethuramalingam Chettiar died without seeing the disposal of the case and his legal heirs are contesting the case after lapse of three decades. The petitioner has not assigned valid reason for the delay of 2001 days and they have no merit in the case. Delays occurred on account of lapses, negligence and dereliction of duty on the part of government officials cannot be allowed.

6. Heard both sides. It is clear that the respondents' land was acquired under the Tamil Nadu Acquisition of Land for construction of houses under the Neighbourhood Scheme 1985 for the Tamil Nadu Housing Board. The petitioner fixed compensation at Rs.200/- per cent as per Award No.2 of 1988, dated 29.07.1988. Since the respondents objected the award of Land Acquisition Officer, the case was referred to the Sub Court, Thoothukudi under Section 18 of the Land Acquisition Act and the case was taken on file as L.A.O.P.No.1 of 2001 and after lapse of more than 15 years, the impugned order was passed on 10.09.2018. Admittedly, the respondents are in Court steps from the year 2001, till the matter is not reached finality.

7. However, it is the case of the petitioner that due to several important administrative works, the appeal could not be preferred within a time limit. The petitioner stated that public money should not be given on wrong fixation of



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compensation and the petitioner may be given an opportunity of hearing. The

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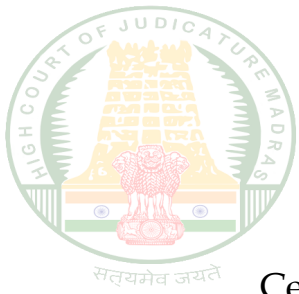
Hon'ble Supreme Court has condoned 16/26 years in preferring the appeal in the matter of land acquisition cases. In 2020 (3) MWN (Civil) 794, wherein the Hon'ble Supreme Court has held in paragraph No.7 as follows:

“Even though the appellant appears not to be as vigilant as he ought to have been, yet his conduct does not, on the whole, warrant to castigate him as an irresponsible litigant. He should have been more vigilant but on his failure to adopt such extra vigilance should not have been made a ground for ousting him from the litigation with respect to the property, concededly to be valuable.”

8. Moreover, (2009) 13 Supreme Court Cases 192 (State of Karnataka vs. Y.Moideen Kunhi (dead) by Lrs. and Ors.), the Hon'ble Supreme Court held as follows:

“15.It was noted that adoption of strict standard of proof some times fail to protract public justice, and it would result in public mischief by skilful management of delay in the process of filing an appeal.

17.Many matters concerning the State Government and the



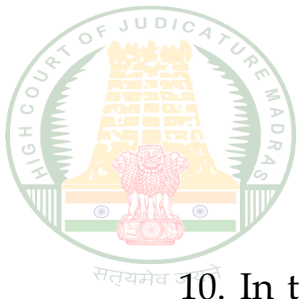
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Central Government are delayed either by the nature of bureaucratic or by deliberate manipulation of the same by taking advantage of loopholes in the conduct of litigation. Several instances have come to the notice of this Court where as noted above appeals have been filed where the revenue involved runs to several crores of rupees...

20. Keeping in view the importance of questions of law, which are involved we are inclined to condone the delay subject to payment of exemplary costs..."

9. In this case, the petitioner submits that because of general election related work, the officials of the petitioner were tagged with urgent works. The petitioner is ready to pay the cost and also submits that if the delay is condoned the matter would be settled. Therefore, this Court is of the opinion that the petitioner may be given an opportunity of hearing in appeal, however, at the same time, the inconvenience caused to the respondents has to be compensated with exemplary manner. Considering the above facts and circumstances, the delay is to be condoned by imposing certain conditions to meet out the inconvenience caused to the respondent.



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10. In the result, this Civil Miscellaneous Petition is allowed on condition that the petitioner shall pay an exemplary cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the respondent on or before 29.04.2025, failing which the petition shall stand automatically dismissed.

Sd/-
28/03/2025

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/04/2025
Sub-Assistant Registrar (CS-I/II/III/IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsd

TO

THE SUBORDINATE JUDGE, THOOTHUKUDI.

+1. C.C. to M/S.GOVERNMENT PLEADER Advocate SR.No.21240

ORDER

IN

CMP(MD) NO. 15865 of 2024

IN

AS(MD)SR.NO. 73248 of 2024

Date :28/03/2025

RK (05/04/2025) 7P / 3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023