

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. (S) OF 2015

(Arising out of S.L.P. (C) No.19720 of 2005)

DISTT. COLLECTOR, MADURAI

Appellant(s)

VERSUS

SELVI NAMBI RATNA & ORS.

Respondent(s)

O R D E R

Leave granted.

This appeal arises out of an order dated 24th January, 2005 passed by the Madurai Bench of Madras High Court whereby C.R.P. (NPD) NO.422 of 2004 filed by the respondents has been allowed, order dated 16th December, 2004 passed by the Principal District Judge, Madurai, condoning the delay of 3174 days in the filing of an appeal by the appellant herein set aside and the appellant's application for condonation of delay dismissed.

The dispute in the case at hand relates to a parcel of land measuring 5.35 acres situate in Uthangudi Village, Madurai (North) Taluk in the State of Tamil Nadu. The plaintiffs-respondents no.5 to 11 claimed to be owners by prescription of the said parcel of the land. Apprehending dispossession they filed O.S. NO.237 of 1995 for a declaration of their title and injunction restraining the defendant-State from interfering with their possession over the said property. That suit was contested on behalf of the State-appellant herein but eventually decreed by the trial court by judgment and

decree dated 11th December, 1995. An appeal against the said judgment and decree was then filed by the State belatedly in the year 2004. An application under Section 5 of the Limitation Act, 1963 seeking condonation of the intervening delay of 3174 days was also filed by the appellant in the said appeal by which time the original plaintiffs had sold the suit property to respondents no.1 to 4 herein for valuable consideration. The first Appellate Court, however, exercised its discretion in favour of the appellant-State and condoned the delay on payment of costs of Rs.25,000/- (Rupees Twenty Five Thousand) by the appellant-State. Aggrieved by the said order, the vendees of the original plaintiffs filed Civil Revision Petition (NPD) No.422 of 2004 before the Madurai Bench of the High Court of Madras which revision has been allowed by the High Court in terms of judgment and order dated 24th January, 2005, as already noticed above. The present appeal assails the correctness of the said order.

We have heard learned counsel for the parties at some length who have taken us through the orders passed by the trial court, those passed by the first Appellate Court and the High Court in revision. Learned Single Judge of the High Court who disposed of the revision petition, in our opinion, correctly noticed the decision of this Court in N. Balakrishnan v. M. Krishnamurthy-(1998) 7 SCC 123 to hold that condonation of delay was a matter that rests in the discretion of the court

before whom the question of condonation arises. Having said that the High Court appears to have taken the view that because of the long delay in the filing of the appeal, the condonation granted by the first Appellate Court would result in manifest injustice. The High Court has on that basis set aside the order passed by the first Appellate Court and dismissed the application for condonation which results in dismissal of even the appeal filed by the appellant-State. While doing so, the High Court has, in our opinion, overlooked three distinct aspects. Firstly, the High Court overlooked the fact that the appeal was filed by the State who has an impersonal work culture attracting slightly different standards and approach to prayers for condonation of delay in the cases filed on its behalf. This Court has in several decisions pointed out the need for a more pragmatic approach towards cases in which the delay occurs on account of the file-pushing culture prevalent in the Government and its official hierarchy. The second aspect which the High Court appears to have ignored touches the bona fides of the Government who had taking note of the neglect of the concerned officials in not bringing the matter to the notice of the concerned quarters for filing an appeal in good time instituted disciplinary action against those responsible. The appellant has in that connection clearly stated that the Government had far from approving the action of the concerned officials started departmental proceedings against them.

Although there is nothing on record to show as to the final outcome of those proceedings, the fact that such proceedings had been thought of and set in motion clearly showed that the Government was neither a willing party to the delay nor had it consented to the inaction of the officials, whether arising out of their collusion with the respondents or out of neglect, indifference or apathy on their part.

The third and equally important dimension, which appears to have escaped the attention of the High Court, was that the condonation of delay in the case at hand was granted subject to payment of Rs.25,000/- (Rupees Twenty Five Thousand) as costs. The appellant has clearly stated that costs were not only offered but actually received by the respondents. That being so, it was not open to the respondents or anyone of them to question the order granting condonation of delay by the first Appellate Court.

Having said that we must mention that the delay in the case at hand was considerably long. Costs assessed Rs.25,000/- (Rupees Twenty Five Thousand) may not have been sufficient to offset the prejudice caused to the respondents. At the same time, however, the respondents have remained in gainful occupation of the said land all these years. Keeping both these aspects in view, we are inclined to direct payment of a further amount of Rs.25,000/- (Rupees Twenty Five Thousand) as costs to the respondents while upholding the order of

condonation passed by the first Appellate Court.

We accordingly allow this appeal, set aside the order passed by the High Court and restore that passed by the first Appellate Court, subject to payment of an additional amount of Rs.25,000/- (Rupees Twenty Five Thousand) towards costs to be deposited before the first Appellate Court within a period of three months from today. Resultantly, the first appeal filed by the appellant-State, shall stand restored to be heard and disposed of by the first Appellate Court in accordance with law.

.....J.
(T.S. THAKUR)

.....J.
(KURIAN JOSEPH)

NEW DELHI
DATED 8th OCTOBER, 2015.

ITEM NO.3

COURT NO.2

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 19720/2005

(Arising out of impugned final judgment and order dated 24/01/2005 in CRP No. 422/2004 passed by the High Court Of Madras)

DISTT. COLLECTOR, MADURAI

Petitioner(s)

VERSUS

SELVI NAMBI RATNA & ORS.

Respondent(s)

(With interim relief and office report)

Date : 08/10/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s) Mr. V. Giri, Sr. Adv.
Mr. B. Balaji, Adv.
Mr. Rakesh Sharma, Adv.

For Respondent(s) Mr. Senthil Jagadeesan, Adv.
Mr. Anandh Kannan N., Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

In terms of the signed order, this appeal is allowed:

"We accordingly allow this appeal, set aside the order passed by the High Court and restore that passed by the first Appellate Court, subject to payment of an additional amount of Rs.25,000/- (Rupees Twenty Five Thousand) towards costs to be deposited before the first Appellate Court within a period of three months from today. Resultantly, the first appeal filed by the appellant-State, shall stand restored to be heard and disposed of by the first Appellate Court in accordance with law."

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER

(Signed order is placed on the file)