

(2013) 11 MAD CK 0299

In the Madras High Court

Case No : Crp. (PD) . No's. 2574, 2575 and 2900 to 2906 of 2013 and M.P. No. 1 of 2013 (9 Nos.)

Thayanban

APPELLANT

Vs

Ponnammal and Others

RESPONDENT

Date of Decision : 29-11-2013

Acts Referred:

Citation : (2014) 1 LW 347

Hon'ble Judges : S. Tamilvanan, J

Bench : Single Bench

Advocate : V. Ravi in all C.R.P, for the Appellant; R. Thiagarajan for R1 to R7 in all C.R.P., for the Respondent

Judgement

S. Tamilvanan, J.—These Civil Revisions have been preferred under Article 227 of the Constitution of India, against the fair and decretal order, dated 19.06.2013 made in I.A. No. 25 of 2013 in L.A.O.P. No. 10 of 2012, I.A. No. 26 of 2013 in L.A.O.P. No. 11 of 2012, I.A. No. 27 of 2013 in L.A.O.P. No. 13 of 2012, I.A. No. 28 of 2013 in L.A. O.P. No. 14 of 2012, I.A. No. 29 of 2013 in L.A. O.P. No. 27 of 2012, I.A. No. 30 of 2013 in L.A. O.P. No. 28 of 2012, I.A. No. 31 of 2012 in L.A. O.P. No. 29 of 2012, I.A. No. 32 of 2012 in L.A. O.P. No. 30 of 2012, I.A. No. 33 of 2013 in L.A. O.P. No. 32 of 2012 respectively on the file of the Sub-Court, Poonamallee. The petitioner herein is the first respondent in the Interlocutory Applications and said to be eight claimant in the L.A.O.P. The aforesaid Interlocutory Applications were filed by the claimants 1 to 7 against the Land Acquisition Officer under Order 7 Rule 14(3) of the Code of Civil Procedure, seeking an order to condone the delay in filing the list of documents, the same was allowed by the Court below. Aggrieved by which these Revisions have been preferred.

2. It is seen from the impugned order, that the revision petitioner herein was arrayed as first respondent and the second respondent is a Land Acquisition Officer and Special Tahsildar (L.A.), Kancheepuram. In all the Interlocutory

Applications, the Court below has passed similar orders, whereby the delay was condoned in producing the documents shown in the list of documents.

3. In para No. 6 of the impugned order, the Court below has averred that claimants 1 to 7 herein had filed the documents relied on by them along with the petition to condone the delay, hence, if the 8th claimant has any objection, he could raise the same at the time of marking the said documents and further, the Referring Officer has endorsed no objection to receive the documents and hence, the admissibility of the documents can be gone into only at the time of marking the documents in the main L.A.O.P. The Court below has viewed that the admissibility of the documents could be gone into at the time of enquiry in the main L.A.O.P. and mere receipt of documents does not mean that the same have been admitted in evidence. It is further averred by this Court below that if the petition is dismissed at the initial stage itself, that would cause great hardship to claimants 1 to 7. With the above averments, the aforesaid Interlocutory Applications were allowed. Aggrieved by which, these Civil Revisions have been filed by the petitioner herein.

4. Mr. V. Ravi, learned counsel appearing for the petitioner submitted that the Court below has committed an error in condoning the delay in filing the list of documents. According to the learned counsel appearing for the petitioners/8th claimant, the petitioner has already taken steps for setting aside the ex parte order passed in I.A. No. 14518 of 2012 before the XVI Assistant Judge, City Civil Court, Chennai in I.A. Nos. 7201 and 7202 of 2013 and hence, marking the order copies relating to the proceedings would affect the petitioner/8th claimant. Learned counsel appearing for the petitioner further submits that claimants 1 to 7 have not approached the Court with clean hands, hence, the petition, seeking an order to condone the delay could have been dismissed by the Court below. According to the learned counsel for the petitioner, the Court below has committed error in not considering the hardships of the petitioner and hence, the impugned orders are liable to be set aside.

5. It is not in dispute that though the Interlocutory Applications were filed under Order 7 Rule 14 CPC, which are relating to production of documents. It is seen that Order 7 Rule 14(3) CPC reads as follows:

A document which ought to be produced in Court by the plaintiff when the plaint is presented or to be entered in the list to be added or annexed to the plaint, but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

6. Learned counsel for the revision petitioner contended that the documents were not produced by claimants 1 to 7 along with the Land Acquisition Original Petition, hence, they are not entitled to mark the same as Exhibits, without seeking leave from the Court for marking the same as Exhibits and evidence to decide the LAOP cases.

7. Per contra, Mr. R. Thiyagarajan, learned counsel appearing for claimants 1 to 7

submitted that the documents were not produced along with the Land Acquisition Original Petitions, hence, they filed Interlocutory Applications, seeking an order to condone the delay and that was allowed and the delay was condoned by the Court below, by the impugned orders. On the aforesaid circumstances, there could be no grievance for the revision petitioner/8th claimant. If there is any legal objection, that can be raised by the petitioner/8th claimant in the main L.A.O.P. According to him, so far as the impugned orders are concerned, it is only to condone the delay, wherein there is no error or infirmity to maintain the revision under Article 227 of the Constitution of India.

8. Mr. V. Ravi, learned counsel appearing for the petitioner in all the C.R.P. contended that there was an agreement entered into between the petitioner and the respondents 1 to 7 on 14.08.2008, whereby the petitioner and the respondents 1 to 7 have agreed mutually for the terms and conditions stipulated in the Memorandum Of Understanding, a xerox copy of the same is available at Page Nos. 70 to 78 of the typed set of papers filed by the respondents 1 to 7 herein. It is not in dispute that there was a MOU between both the parties to this revision petitions. Learned counsel for the petitioner further contended that the respondents 1 to 7 have to pay service charge, a sum equivalent to 5% on the net sale price and the petitioner has commenced his work, as per the MOU, however, in view of the land being acquired for the Metro Rail project, respondents 1 to 7 have failed to comply with the terms and conditions, as per the MOU. Subsequently, the petitioner herein was also arrayed as one of the parties in all the Land Acquisition Original Petitions.

9. Per contra, Mr. R. Thiagarajan, learned counsel appearing for the respondents 1 to 7 submitted that prior to the Land Acquisition Proceeding, MOU was entered into between the parties. As per the MOU, the petitioner herein had to get clearance from the authorities as stated therein. However, after the land acquisition proceeding initiated by the 8th respondent, there is no need for the petitioner to approach the concerned authorities and get approval, permission and other related performance and therefore, the petitioner is not entitled to claim 5% in the Award amount, fixed by the Land Acquisition Officer/8th respondent herein. In these Revisions, this Court need not go into the merits of the claim of the petitioner and the defence raised by the respondents 1 to 7 herein.

10. It is an admitted fact that Land Acquisition Proceedings in the form of LAOP cases are pending before the Sub-Court, Poonamalee and the petitioner herein has been arrayed as claimant No. 8. Hence, the scope of the Interlocutory Application is limited, as it is only to condone the delay in producing certain documents, shown in the list of documents, in order to mark the same as Exhibits in the LAOP cases.

11. As contended by the learned counsel appearing for the respondents 1 to 7, condoning the delay is the discretion of the Court, based on the facts and circumstances of each case. However, it is open to the petitioner to raise his

objection at the time of marking the document, if the same is not admissible in evidence. Similarly, if it is admissible, considering the objection, subject to proof and relevancy, the same may be marked. Hence, while condoning the delay, the petitioner is not entitled to raise any serious objection, if the document is admissible in evidence.

12. Mr. V. Ravi, learned counsel appearing for the petitioner contended that the petitioner herein is entitled to claim the amount as per the agreement entered into between the petitioner and the land owners, who are arrayed as respondents 1 to 7 herein. Merely because the land was acquired subsequently for the purpose of Chennai Metro Rail project, the petitioner's right could not be disputed by the respondents 1 to 7. However, the same has to be decided by the Court below, as per law, based on the evidence.

13. Mr. R. Thiagarajan, learned counsel for the respondents 1 to 7 contended that a portion of amount was already paid. The correctness of the amount paid and the legality of the claim, the entitlement of the petitioner to seek the relief could be decided only by the Court below and therefore, this Court need not go into those aspects in this Revision.

14. The limited scope in this Revision is whether this Court has to interfere with the impugned order passed by the Court below, invoking Article 227 of the Constitution of India, on the grounds raised by the Revision petitioner.

15. Having considered the grounds and the arguments advanced by both the learned counsel, this Court is of the view to dispose of the revision petitions, without prejudice to the rights of both the parties, enabling the Court below to dispose the LAOP cases, considering the rights of both the parties, according to law.

16. Accordingly, the respondents 1 to 7 herein are permitted to mark the documents shown in the list of documents, before the Court below, subject to admissibility, proof and relevancy of the documents and the petitioner/Claimant No. 8 is entitled to raise all his legal objections and the learned counsel for the petitioner/claimant No. 8 shall be given reasonable opportunity to cross-examine the witness, through whom the documents are being marked. With the above observations, these Civil Revision Petitions are disposed of. Consequently, connected miscellaneous petitions are closed. No order as to costs.