

(2009) 02 MAD CK 0036

In the Madras High Court

Case No : C.R.P. (PD) No. 913 of 2008 and M.P. No. 1 of 2008

Veerasamy

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 10-02-2009

Acts Referred:

Citation : (2009) 02 MAD CK 0036

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : S. Mohan, for the Appellant; Bhavani Subbarayan, Spl. G.P., for the Respondent

Judgement

G. Rajasuria, J.—Inveighing the order dated 26.11.2007 passed in I.A. No. 871 of 2007 in O.S. No. 34 of 2002 by the District Munsif

Judge, Perambalur, this civil revision petition is focussed.

2. The warp and woof of the relevant facts, which are absolutely necessary and germane for the disposal of this civil revision petition, would run

thus:

The revision petitioner/plaintiff filed the suit O.S. No. 34 of 2004 seeking the following relief:

to direct the defendant to grant a valid assignment with regard to the suit property in the name of plaintiff in specific performance of the promise

made by him and if the defendant refuses to do so within the time stipulated by this Hon''ble Court this Hon''ble itself conveys valid title of the suit

property in favour of the plaintiff.

The ex-parte decree was passed on 28.3.2005. Thereafter the respondent/defendant filed the I.A. No. 871 of 2007 for getting the delay of 725

days condoned in filing the application to get set aside the ex-parte decree. The petitioner/plaintiff resisted the same. However, the lower Court

allowed the application on cost of Rs. 500/- payable by the defendant in favour of the plaintiff. Being aggrieved by and dissatisfied with the said

order, this civil revision petition is focussed by the plaintiff.

3. The learned Counsel for the revision petitioner/plaintiff, placing reliance on the grounds of revision, would develop his argument to the effect that

absolutely there is no rhyme or reason on the part of the lower Court in allowing the application filed by the Government, which was bereft of any

reason; the lower Court also adverted to such non specification of reasons in the application for getting the delay condoned; however, the lower

Court erroneously and unjustifiably condoned the delay on cost of Rs. 500/- payable by the defendant to the plaintiff.

4. The learned Counsel for the petitioner/plaintiff also cited the decision of the Honourable Apex Court, reported in Pundlik Jalam Patil (D) by Lrs.

Vs. Exe. Eng. Jalgaon Medium Project and Another, . an excerpt from it would run thus:

Limitation Act, 1963 (36 of 1963) - Object and nature of - Statutes of limitation are described as statutes of peace - Some kind of limitation is

essential for public order - An unlimited and perpetual threat of legal action creates insecurity and uncertainty - Object for fixing time limit for

litigation is based on public policy - Fixing limitation is meant to see that parties do not resort to dilatory tactics but avail legal remedies promptly.

Statutes of limitation are sometimes described as "statutes of peace". An unlimited and perpetual threat of limitation creates insecurity and

uncertainty; some kind of limitation is essential for public order. This Court in Rajender Singh and Others Vs. Santa Singh and Others, , has

observed: ""the object of law of Limitation is to prevent disturbance and deprivation of what may have been acquired in equity and justice by long

enjoyment or what may have been lost by a party's own inaction, negligence or laches"". In Motichand v. Munshi 1969(2) SCR 824, this Court

observed that this principle is based on the maxim ""interest republicae ut sit finis litum, that is, the interest of the State requires that there should be

end to litigation but at the same time law of Limitation are a means to ensuring private justice suppressing fraud and perjury, quickening diligence

and preventing oppression.

It needs no restatement at our hands that the object for fixing time limit for litigation is based on public policy fixing a life span for legal remedy for

the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly.

Salmond in his jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy.

Accordingly, he prays for setting aside of the impugned order of the lower Court.

5. Whereas, the learned Special Government Pleader would advance her argument that the lower Court taking into consideration the seriousness

of the matter and also the fact that the Government has to be given one more opportunity of defending the case, has chosen to condone the delay,

which warrants no interference by this Court.

6. In this factual matrix, my mind is reminiscent of the following maxims:

(i) *Vigilantibus non dormientibus jura subveniunt*; and

(ii) *Interest reipublicae ut sit finis litium*.

No doubt the above said two maxims are sister provisions, which would highlight and spotlight that the party seeking remedy before the Court

should be vigilant, otherwise, the law would not come to their help and there should be end to litigation.

7. According to the learned Counsel for the revision petitioner here in this case, the Government, being the biggest litigant, should have been careful

enough in prosecuting its defence, but they have not chosen to do so.

8. The bare perusal of the judgement cited *supra* would exemplify and display, demonstrate and expatiate that there should not be any dilatory

tactics on the part of the litigant in the litigative process. If that is so, the delay should not be condoned. Here, I could see no dilatory tactics on the

part of the Government. Simply because some officials were dormant, inert, inactive, lukewarm or lethargic in their act, the Government should not

be made to suffer. More often than not due to administrative delays, the litigations involving Government are getting prolonged and it is due to

some erring officials' conduct.

9. Here the Government, by not appearing before the Court and prosecuting the defence, had nothing to gain out of it. It is because of the officials'

laches, the delay occurred. I am of the view that by awarding a sum of Rs. 2000/- (rupees two thousand only) payable by the respondent to the

petitioner, the difficulty caused to the petitioner/plaintiff could be remedied and I also give direction to the Collector concerned of that area to take

appropriate disciplinary action as against the official(s), who allowed grass grow under the feet and if possible, the Collector should take steps to

recover the said cost from the erring officials.

10. The learned Counsel for the revision petitioner has brought to the notice of this Court that even the sum of Rs. 500/- awarded by the lower

Court has not yet been paid and for which, time was sought for by the Government. The learned Special Government Pleader would submit that

owing to procedural difficulties, the cost could not be paid. However, I make it clear that the sum of Rs. 2000/- awarded in this order which would

include the sum of Rs. 500/- awarded by the lower Court shall be directly paid to the revision petitioner through cheque or other means, within a

period of three weeks from the date of receipt of copy of this order.

11. Accordingly, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.