

(2009) 04 MAD CK 0552
Madras High Court (Madurai Bench)
Case No: C.R.P. (NPD) No. 423 of 2005

E. Murugesan

APPELLANT

Vs

The Special Tahsildar (A.D.W.)
cum Land Acquisition Officer,
Cheranmahadevi

RESPONDENT

Date of Decision: April 2, 2009

Acts Referred:

- Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 - Section 9
- Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Rules, 1979 - Rule 6

Citation: (2009) 6 MLJ 287

Hon'ble Judges: M. Venugopal, J

Bench: Single Bench

Advocate: G. Sridharan, for the Appellant; K. Nallathambi, AGP, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

M. Venugopal, J.

The revision petitioner/appellant/claimant has filed this revision petition as against the order dated 21.10.2002 in unnumbered C.M.A.(G.L.) No. 5753 passed by the learned Sub-Judge, Ambasamudram in rejecting the unnumbered appeal.

2. According to the learned Counsel for the revision petitioner, the order passed by the learned Sub-Judge, Ambasamudram in unnumbered C.M.A.(G.L.) No. 5753 dated 02.11.2001 is not correct in the eye of law since the revision petitioner has applied for the copy of the award on 03.10.2001 and the same has been received on 21.10.2001 and that the C.M.A. has been filed on 07.11.2001 and it is the consistent case of the revision petitioner that the appeal filed by the revision petitioner before the learned Sub-Judge, Ambasamudram is not barred by limitation, in view of the fact that the respondent has not sent the copy of the award to the revision

petitioner and this aspect of the matter has not been looked into by the learned Sub-Judge, Ambasamudram in proper perspective and this has resulted in miscarriage of justice and therefore, prays for allowing the Civil Revision Petition in furtherance of substantial cause of justice.

3. Contendending contra, Mr. K. Nallathambi, learned Additional Government Pleader for the respondent submits that the revision petitioner has to file a delay excuse petition along with C.M.A. and this has not been done by the revision petitioner before the learned Sub-Judge, Ambasamudram and therefore, the C.M.A. has been rightly rejected by the court below and the same need not be interfered with this Court sitting in revision.

4. This Court has given its anxious consideration to the arguments advanced on both sides and noted the same.

5. It is to be noted that Section 9 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 speaks of filing of an appeal against order of amount determined by the prescribed authority to the concerned court within such period as may be prescribed. Significantly, Rule 6 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 prescribed six weeks time limit from the date of receipt of the copy of the order as the time limit to file an appeal to the court.

6. The pith and substance of the argument advanced by the learned Counsel for the revision petitioner is that the appeal is not barred by time, in lieu of the fact that the revision petitioner has not been served with the copy of the award and therefore, the plea of limitation cannot be put against the revision petitioner/appellant in any manner in the eye of law and this Court is in complete agreement with the said submission.

7. On a careful consideration of respective contentions and bearing in mind of an important fact that the revision petitioner has not been served with the copy of the award so as to enable him to prefer an appeal, this Court is of the considered view that the order of the learned Sub-Judge, Ambasamudram in rejecting the C.M.A. at the unnumbered stage is per se not correct in the eye of law and therefore, sets aside the said order and further this Court issues a direction to the trial court to restore the unnumbered C.M.A. to its file and to number the same and after providing due opportunity to the other side to dispose of the same within a period of four months from the date of receipt of the copy of this order in manner known to law and to report compliance to this Court without fail.

8. In the result, the Civil Revision Petition is allowed. The order passed by the trial Court is set aside. Considering the facts and circumstances of the case, there shall be no order as to costs.