

A EXECUTIVE OFFICER, ANTIYUR TOWN PANCHAYAT

v.

G. ARUMUGAM (D) BY LRS.
(Civil Appeal No. 8577 of 2014)

JANUARY 19, 2015.

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[M. Y. EQBAL AND KURIAN JOSEPH, JJ.]

Appeal: Delay in filing – Condonation of – Delay of 1373 days in filing appeal – Suit for declaration and possession of the suit land filed by first respondent – Trial court dismissed the suit – First respondent filed appeal which was allowed – No steps taken by appellant thereafter – After 4 years, appellant applied for certified copy of the judgment and decree – Thereafter, second appeal filed alongwith the application for condonation of delay – High Court declined to condone the delay – On appeal, held: Delay, howsoever huge may be condoned if there is an attempt on part of government officials or public servants to defeat justice by causing delay.

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Allowing the appeal and remitting the matter to the High Court, the Court

HELD: 1. The delay occasioned only on account of the deliberate lapses on the part of the Executive Officer of the Panchayat at the relevant time. If the court is convinced that there had been an attempt on the part of the government officials or public servants to defeat justice by causing delay, the court, in view of the larger public interest, should take a lenient view in such situations, condone the delay, howsoever huge may be the delay, and have the matter decided on merits. The delay of 1373 days in filing the second appeal is condoned. [Paras 3, 4 and 5] [154-E-F, G-H; 155-A]

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EXECUTIVE OFFICER, ANTIYUR TOWN PANCHAYAT 153
v. G. ARUMUGAM (D) BY LRS.

State of Nagaland v. Lipok Ao and Ors. (2005) 3 SCC 752: 2005 (3) SCR 108 – relied on. A

Case Law Reference:

2005 (3) SCR 108 relied on Para 5

CIVIL APPELLATE JURISDICTION : Civil Appeal No.
8577 of 2014. B

From the Judgment & Order dated 17.04.2006 of the High
Court of Judicature at Madras in C.M.P. No. 4874 of 2006 in
S.A. SR No. 876 of 2006. C

WITH

I.A. No. 2 of 2014

R. Nedumaran for the Appellant. D

V.N. Subramaniam, Revathy Raghavan for the
Respondents.

The Judgment of the Court was delivered by E

KURIAN, J. 1. Appellant is aggrieved by the impugned
order passed by the High Court declining to condone the delay
of 1373 days in filing the appeal against the judgment dated
14.11.2000 in A.S. No. 108 of 1999 on the file of the
Subordinate Judge, Bhavani, Erode District, Tamil Nadu. The
first respondent herein filed O.S. No. 267 of 1992 on the file of
the Additional District Munsif Court, Bhavani, Tamil Nadu for
declaration and possession of the suit land. The Gram
Panchayat, defendant in the suit, contended that the suit land
is Natham Poramboke and the possession and records of title
are in the name of the Panchayat. The trial court dismissed the
suit by judgment dated 11.07.1997. The complainant-first
respondent herein filed first appeal as A.S. No. 108 of 1999.
The appeal was allowed and the suit was decreed by judgment
dated 14.11.2000. F
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A 2. It appears, no steps were taken by the Executive Officer of the Panchayat at the relevant time. When the Executive Officer, at the time of filing the second appeal, came to know of the proceedings when steps for eviction were taken in execution, he immediately took steps and filed an application
 B on 26.10.2004 for certified copy of the judgment and decree. The same were issued on 15.12.2004, and after obtaining the necessary sanction and on completing the other procedural formalities, the second appeal was filed on 05.01.2005 along with application for condonation of delay. By the impugned
 C order, the High Court declined to condone the delay. According to the High Court, the delay is not properly explained. It is also observed in the impugned order that though the certified copies were issued on 15.12.2004, the second appeal is filed only on 05.01.2005 and that there is no explanation even for that delay.

D 3. In the additional affidavit filed on behalf of the appellant on 12.12.2006, it is brought to the notice of this Court that Shri K. G. Ramasamy, who was working as Executive Officer of the Panchayat at the relevant time was suspended from service w.e.f. 12.07.2002 on allegations of corruption. Be that as it may,
 E after going through the records and after hearing the counsel on both sides, we are satisfied that the delay occasioned only on account of the deliberate lapses on the part of the Executive Officer of the Panchayat at the relevant time. Who else are involved in the process, is not quite clear.

F 4. As held by this Court in *State of Nagaland v. Lipok Ao and others*¹, the court must always take a justice-oriented approach while considering an application for condonation of delay. If the court is convinced that there had been an attempt
 G on the part of the government officials or public servants to defeat justice by causing delay, the court, in view of the larger public interest, should take a lenient view in such situations, condone the delay, howsoever huge may be the delay, and have the matter decided on merits.

H 1. (2005) 3 SCC 752.

EXECUTIVE OFFICER, ANTIYUR TOWN PANCHAYAT 155
v. G. ARUMUGAM (D) BY LRS. [KURIAN JOSEPH, J.]

5. Accordingly, we set aside the impugned order and A
condone the delay of 1373 days in filing the second appeal.
The case is remitted to the High court for further consideration
in accordance with law. The Interlocutory Application No. 2 of
2014 is accordingly disposed of.

6. The appeal is allowed as above. There is no order as B
to costs.

Devika Gujral

Appeal allowed & remitted to High Court