

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31-07-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.23225 of 2015

and

M.P.Nos.1 and 2 of 2015

Ammasaiyappan

.. Petitioner

vs

1. State rep.

By the Chief Controlling Revenue
Authority-cum-Inspector
General of Registration
No.100, Santhome High Road
Chennai 600 028

2. The District Revenue Officer (Stamps)
District Collectorate
Coimbatore 18

3. The Joint-I Sub Registrar
Tiruppur

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the first respondent issued in Mu.Mu.No.17893/N2/2015 dated 28.5.2015, quashing the same and consequently, directing the first respondent to take up the appeal petition dated 23.3.2012, and pass appropriate orders within the stipulated time.

For Petitioner : Mr.R.Bharath Kumar

For Respondents : Mr.V.Subbiah
Special Government Pleader

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner through a sale deed dated 13.9.2007, registered as Document No.9688/2007, on the file of the Office of the Joint Sub-Registrar at Tiruppur, had purchased the property

admeasuring to an extent of 34,880 square feet, together with the building measuring about 6,705 square feet, for a sale consideration of Rs.56,30,000/-, and also paid a stamp duty of Rs.4,50,400/- and registration fee of Rs.56,490/-, and while so, he was issued with a notice by the second respondent on 26.4.2008, wherein, it has been mentioned among other things, that the third respondent has requested the second respondent to determine the market value of the property under Section 47A(1) of the Indian Stamp Act, 1899, and the petitioner has submitted his response/objections dated 14.5.2008, to the said notice and the second respondent without considering the same, has passed an order dated 16.12.2008, determining the market value of the property at Rs.4,71,46,498/-, and directed the petitioner to pay the deficit stamp duty of Rs.33,21,320/-, failing which, threatened to initiate recovery action under the provisions of the Revenue Recovery Act.

3.The petitioner would state that he, challenging the said order, filed an appeal dated 20.1.2009, requesting the second respondent to consider his case, and it was also followed by a reminder dated 7.7.2011, and the petitioner came to know that instead of preferring the appeal to the second respondent, he has to prefer it to the first respondent and accordingly, submitted an appeal petition dated 23.3.2012, to the first respondent and it was returned on the ground that it has been time barred, and the petitioner challenging the same, filed W.P.No.7378/2015, and this Court has quashed the order by granting liberty to the petitioner to file an application for condonation of delay before the first respondent and accordingly, the petitioner has filed such a petition and it was rejected vide impugned order dated 28.5.2015, by the first respondent on the ground that the delay in filing the appeal, has not been properly explained. The petitioner, challenging the legality of the said order, has filed this writ petition.

4.Mr.R.Bharath Kumar, learned Counsel appearing for the petitioner, would submit that the petitioner has wrongly preferred the appeal before the second respondent and on realising the mistake, pursuant to the liberty granted by this Court, has filed an application for condonation of delay and the first respondent, without properly appreciating the factual circumstances, which led to the delay, has erroneously rejected the application for condonation of delay and prays for appropriate orders and in the alternate, would also plead that the petitioner is also prepared to pay cost to any agency, as ordered by this Court for condonation of such a delay.

5.Per contra, Mr.V.Subbiah, learned Special Government Pleader, who accepted notice on behalf of the respondents, would submit that the delay runs to 1956 days and therefore, it is bounden duty on the part of the petitioner to properly explain the same and since he has failed to explain it, the first respondent has rightly rejected the application filed for condonation of delay, and prays for dismissal of this writ petition.

6.This Court has carefully considered the rival submissions and also perused the materials placed before it.

7.Admittedly, the petitioner has filed the appeal before the wrong forum viz. the second respondent, and on realising the mistake, pursuant to the liberty granted by this Court in W.P.No.7378/2015, has filed the application to condone the delay of 1956 days in filing the appeal before the first respondent. The Court has also gone through the affidavit filed in support of this writ petition, and is of the view that the petitioner has committed a genuine mistake in preferring the appeal before the second respondent, instead of preferring it before the first respondent, and that is why, the delay had occurred. However, this Court, taking into consideration the fact that the delay is on the higher side, is of the view that it is to be condoned subject to putting the petitioner on terms.

8.In the result, the writ petition is allowed and the impugned order dated 28.5.2015, passed by the first respondent, is set aside subject to the condition that the petitioner shall pay a sum of Rs.10,000/- (Rupees ten thousand only) to the Secretary, The College Students and Graduate Associations of the Blind, Thakkar Baba Vidyalaya Buildings, Venkat Narayana Road, Nandhanam (T.Nagar), Chennai 17, towards cost, on or before 14.8.2015. No costs. Consequently, connected miscellaneous petitions are closed.

List for compliance on 14.8.2015.

nsv

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To:

1. The Chief Controlling Revenue
Authority-cum-Inspector
General of Registration
No.100, Santhome High Road
Chennai 600 028
2. The District Revenue Officer (Stamps)
District Collectorate
Coimbatore 18
3. The Joint-I Sub Registrar
Tiruppur

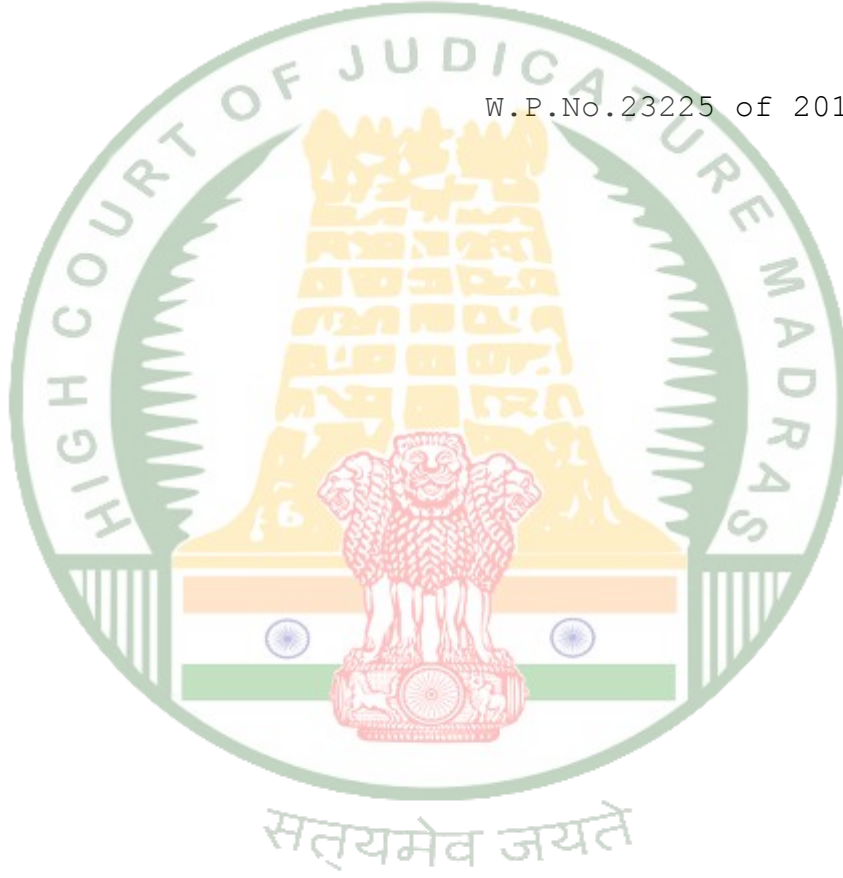
Copy to:

The Secretary,
The College Students and Graduate
Associations of the Blind,
Thakkar Baba Vidyalaya Buildings,
Venkat Narayana Road,
Nandhanam (T.Nagar),
Chennai 600 017

+ 1 cc to M/s.R.Bharath Kumar, Advocate SR 39732

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W.P.No.23225 of 2015



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