

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.Nos.6691 and 6692 of 2015

N.Senthil Prasath

... Petitioner in W.P.No.6691 of 2015

M.Kanagaraj

... Petitioner in W.P.No.6692 of 2015

vs.

1. The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam, Chennai

2. The District Registrar (Admin)
The District Registrar Office,
District Collector Office Campus,
Coimbatore

3. The Joint Sub-Registrar,
Joint No.1, Office,
Registration Office,
Coimbatore.

.... Respondents in both the petitions

Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the entire records pertaining to the order issued by the 2nd respondent in அ.தி.மு.எண். 11669/ஆ1/2014; 11668/ஆ1/2014 respectively dated 01.09.2014 and quash the same and direct the 2nd respondent to number the appeal submitted by the petitioner.

For Petitioners : Mr.R.Ramasamy

For Respondents : Mr.V.Jayaprakashnarayanan
Special Government Pleader

COMMON ORDER

Heard Mr.R.Ramasamy, learned counsel for the petitioners and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondents. With the consent of either side, the Writ Petitions themselves are taken up for final disposal at the admission stage.

2. The petitioners in these Writ Petitions have challenged the order passed by the 2nd respondent dated 01.09.2014, by which the 2nd respondent has refused to entertain the appeal filed by the petitioners, as against the refusal to register the document nos.208 of 2012 and 209 of 2012 dated 11.04.2012 on two grounds namely, that the original documents have not been produced as required under Rule 166(ii) of the Registration Rules and 2nd ground of rejection is that the appeal filed by the petitioner is time barred, as it has been presented beyond 30 days as stipulated under Section 73(1) of the Registration Act, 2008.

3. This Court proposes to deal with the 2nd ground of rejection at the first instance. The petitioners were aggrieved by the refusal of registration of those two documents by the Sub-Registrar Joint No.1, Coimbatore which were presented for registration on 25.06.2014. The petitioners had 30 days time to prefer an appeal and the petitioners preferred an appeal on 22.07.2014 well within 30 days time limit. However, the appeal was returned on the ground that the petitioners have not remitted the requisite fee of Rs.100/-, vide memo dated 25.07.2014. On receipt of the same, the petitioners remitted the said amount of Rs.100/- on 12.08.2014. The petitioners re-presented the appeal along with fee of Rs.100/- and requested the 2nd respondent to take on file the appeal petition. Since the amount was tendered in-person, the 2nd respondent is said to have refused to receive the amount and therefore, the petitioners took demand draft on 25.08.2014 and has complied with the said return.

4. Subsequently, the impugned orders have been passed on totally different grounds, namely, on the ground that the petitioners have not produced the original document and that the appeal is barred by limitation. It is to be pointed out that these grounds were not the grounds for returning the petitioners appeal petition while passing the order dated 25.07.2014. Therefore, it appears that the 2nd respondent has been making peace-meal return, which has to be deprecated.

5. So far as the issue relating to the limitation is concerned, the limitation has to be computed from the date on which the appeal petition was presented. It is not in dispute that the petitioners' appeal was presented well within a period of limitation. Therefore, the authority at the first instance, while passing the order dated 25.07.2014 did not state that the appeal was barred by limitation. Therefore, now, the appeal cannot be held to be barred by limitation, since it was presented well within the period of limitation. Accordingly, the impugned order rejecting the petitioner's appeal petition on the ground of time barred is quashed.

6. Now, let us deal with the other issue, namely, as to whether the petitioners' appeal could be rejected for non-production of original documents. Admittedly, the petitioners are only claimants and they are not executants. Therefore, the petitioners plead that they do not have any of the original documents with them. In such circumstances, the 2nd respondent has to resort to procedure under Clause (ii) of Rule 166 of Registration Act, which provides that when the documents are stated to be in possession of some person other than the appellant and the latter desires time to obtain and produce it or the issue of a summons for its production, the request may be complied with and the appeal or application admitted pending receipt of the document.

7. Therefore, having already stated about their inability for production of original document, the proper procedure to be followed by the respondent is to invoke Rule 166(ii) of Registration Rules, issue summons to the executors for production of documents and till then, the appeal should be admitted and kept pending. However, the 2nd respondent has failed to adopt the said procedure, therefore, the other ground of rejection mentioned in the impugned order also deserves to be set aside and the same is set aside.

8. In the result, the impugned orders dated 01.09.2014 are quashed and the Writ Petitions are allowed and the matter is remanded to the 2nd respondent for fresh consideration and the 2nd respondent is directed to admit the appeal, issue notice to the executors of those documents, with a direction to produce the original documents for enquiry and on receipt of those documents, after hearing the parties, the 2nd respondent shall pass orders on merits and in accordance with law in the appeal petition. The said direction shall be complied with by the 2nd respondent as expeditiously as possible, preferably

within a period of two months after the documents are received by the 2nd respondent pursuant to the summons under Rule 166(ii) of the Registration Act. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

SSC

To

1. The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam, Chennai
2. The District Registrar (Admin)
The District Registrar Office,
District Collector Office Campus,
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3. The Joint Sub-Registrar,
Joint No.1, Office,
Registration Office,
Coimbatore.

+2cc's to Mr.R.Ramasamy, Advocate, S.R.No.13210 & 13211
+2cc's to the Government Pleader, S.R.No.13586 & 13593

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LRS (CO)
CA(23/03/2015)

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