IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.7378 of 2015 & MP.Nos.1&2 of 2015

Ammasaiyappan .. Petitioner

Versus

1.The Chief Controlling Revenue Officer
cum Inspector General of Registration,
No.100, Santhome High Road,
Mylapore, Chennai 600 004.

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 a writ of certiorarified mandamus calling for the records of the 2nd respondent issued in Mu.Pa.No.694/Thi/2008 dated 16.12.2008 and the proceedings of the first respondent in Mu.Mu.No.16132/N2/2012 dated 04.05.2012 and the consequential notice dated 07.01.2015 issued in Mu.Pa.No.694/Thi/2008 by the 2nd respondent, quash the same and consequently direct the 2nd respondent to afford opportunity to the petitioner and pass appropriate orders within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharath Kumar
For Respondents: Mr.V.Jayaprakash Narayanan, Spl.GP

ORDER

Heard Mr.R.Bharath Kumar, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader accepting notice on behalf of the respondents and with their consent, the writ petition is disposed of at the admission stage itself.

2.The petitioner seeks for issuance of a writ of certiorari to quash the order passed by the 2nd respondent dated 16.12.2008 and the order passed by the 1st respondent dated 04.05.2012 rejecting the petitioner's appeal on the ground of limitation and the consequential demand notice dated 07.01.2015.

3.The matter arises under the provisions of the Indian Stamp Act. The petitioner presented the Sale Deed for registration which was registered as Document No.9688/2007. According to the petitioner, he has properly valued the document and paid the necessary stamp duty and the registration charges. However, the 2nd respondent entertained a doubt regarding the valuation of the property as set out in the instrument and issued a notice under Form-1 on 26.04.2008. According to the petitioner, he has sent his objections to the notice on 20.01.2009 by Certificate of Postings. However, the 2nd respondent, by order dated 16.12.2008, confirmed the proposal in Form-1 notice on the ground that the petitioner did not submit his objections , though he received the notice. Further, the 2nd respondent also proceeded to deal with the merits of the matter and confirmed the proposal and demanded the deficit Stamp Duty and Registration Charges as well as the interest. Aggrieved by the same, the petitioner preferred an appeal to the 1st respondent. However, the appeal was grossly belated and presented only on 23.03.2012. The 1st respondent/Appellate Authority, has rejected the appeal as having been presented beyond the period of limitation as stipulated under Rule 9[1] of the Tamil Nadu Stamp Prevention of under-valuation of Instruments [Rules], 1968. therefore, the petitioner has now filed this writ petition challenging the orders of the respondents 1 and 2 as well as the consequential demand notice issued by the 3rd respondent.

4.It is seen that at the time when the petitioner presented the appeal before the 1st respondent, the petitioner did not seek for condonation of delay in filing the appeal, as the petitioner was entitled to file an application seeking for condonation of delay. But, without setting out the reasons for the delay, the petitioner merely presented the appeal petition. That apart, the petitioner would state that he has given his objections before the 2nd respondent which was not considered. However, the objections was not sent by Registered Post; but has been sent by Certificate of Posting and it is not known as to whether the same was received by the 2nd respondent. In any event, the petitioner, having exercised his right to file an appeal, has to agitate all his contentions before the Appellate Authority. However, since the appeal has been rejected on the ground of limitation, this Court is of the view that the petitioner could be granted opportunity to file an application for condoning the delay in filing the appeal before the 1st respondent and thereafter, the authority to consider the condone delay petition and if reasons assigned by the petitioner are satisfactory and sufficient cause has been shown, then the 1st respondent can exercise his discretion and condone the delay and thereafter hear the appeal. If, on the other hand, the 1st respondent is of the view that the delay has not been explained satisfactorily, it is open to him to pass orders in accordance with law.

5.Accordingly, the writ petition is partly allowed and the order passed by the 1st respondent dated 04.05.2012 alone is set aside and the matter is remanded back to the 1st respondent for fresh consideration. The petitioner is directed to file an application seeking condonation of delay in filing the appeal within a period of two weeks from the date of receipt of a copy of this order. The application for condonation of delay should be supported by an affidavit setting out the reasons for delay. On such application being filed by the petitioner, the 1st respondent shall consider the same and proceed in accordance with law as indicated supra. The 1st respondent shall pass appropriate orders on the condone delay petition within a period of four weeks from the date on which the same is presented. Till the final orders are passed, the impugned notice issue by the 2nd respondent dated 07.01.2015 shall be kept in abeyance. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar
Dated:23.3.15

True Copy

Sub Assistant Registrar

To

1.The Chief Controlling Revenue Officer
cum Inspector General of Registration,
No.100, Santhome High Road,
Mylapore, Chennai 600 004.

2.The District Revenue Officer [Stamps]
District Collectorate, Coimbatore-18.

3.the Joint - I, Sub Registrar,
Tiruppur.

+1 cc to Government Pleader,SR.15150

+1 cc to Mr.R.Muthukumar, Advocate,SR.14965.

ggk(co)
krd 26/3

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