

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P. No. 25081 of 2013

S.Sekar

...Petitioner

Vs.

1. The District Registrar (Administration),
Office of the District Registrar,
South Madras, Saidapet,
Chennai -15.

2. The Sub-Registrar,
Office of the Sub-Registrar,
Padappai - 601301.

3. Tmt. J.Jayanthi,

4. R.P.Dharmalingam.

...Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified Mandamus calling for records of the respondents 1 and 2 herein and to quash the impugned order of the 1st respondent dated 28.03.2013 in No. 2494/A1/2012 and also to quash the 2nd respondent suo moto order dated 10.10.2012 and direct the 1st respondent to dispose of the appeal petition dated 28.03.2013 on merits.

For Petitioner : Mr.M.Balasubramanian,

For Respondents 1 and 2 : Mr.V.Subbiah,
Special Government Pleader

For Respondent No. 3 : Mr.R.Edwin Solomon,

For Respondent No. 4 : Mr.M.Vivekanandan,

ORDER

As against an order dated 10.10.2012, passed by the respondent No. 2, the petitioner filed an appeal on 21.02.2013 before the respondent No. 1. The appeal filed by the petitioner was rejected by the respondent No. 1 on 28.03.2013, on the

ground that it is barred by limitation. Challenging the same, the present writ petition has been filed by the petitioner before this Court.

2. Learned counsel for the petitioner has rightly submitted that while considering the period of limitation, what is important is the date of receipt of the copy of the order. Learned counsel for the petitioner further submitted that, if the date of receipt of the copy of the order is taken into consideration, the appeal filed against the order of the respondent No. 2, dated 10.10.2012, is within time.

3. Considering the above facts, it can be seen that the delay in filing the appeal by the petitioner is not huge. Even otherwise, Section 33 is to be construed as directory and not mandatory. What the petitioner seeks is adjudication of the appeal on merits. Accordingly, the impugned order of the respondent No. 1, dated 28.03.2013, is hereby set aside.

4. Consequently, the petitioner is hereby directed to represent the appeal before the respondent No. 1, within a period of six weeks from the date of receipt of copy of this order. On receipt of the same, the respondent No. 1 shall consider and dispose of the appeal filed by the petitioner on merits and in accordance with law, without rejecting it on the ground of limitation within a period of three months from the date of receipt of the appeal from the petitioner. The respondent No. 1 is further directed to serve notice on all the concerned parties while disposing of the appeal.

5. With the above directions, the writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1. The District Registrar (Administration),
Office of the District Registrar,
South Madras, Saidapet,
Chennai -15.

2. The Sub-Registrar,
Office of the Sub-Registrar,
Padappai - 601301.

+1cc to Mr.M.Vivekanandan, Advocate Sr.67323
+1cc to M/S.Edwin Solomon, Advocate Sr.67287
+1cc to Mr.Balasubramanian, Advocate sr.67286

W.P.No. 25081 of 2013

svi[co]
srg 29/12/2015



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