

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 4.2.2016.

CORAM

THE HON'BLE MR.JUSTICE R.SUBBIAH

W.P.Nos.928 and 929 of 2013
and
M.P.Nos.1 of 2013

1. P.G.Santhosh Kumar
2. Mrs.J.Chitrakala
- Petitioners in both WPs
- vs.

1. The District Registrar,
Kanchipuram.
2. The Sub Registrar,
Uthukkottai, Thiruvallur District.
3. Mr.P.Ramkumar Respondents in both WPs

Writ Petition No.928 of 2013 is filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the Appeal No.2/2012/A1 dated 30.11.2012 on the file of the 1st respondent confirming the order dated 8.8.2012 on the file of the 2nd respondent and quash the same and consequently direct the 2nd respondent to admit the document viz. sale deed dated 25.5.2012 vide No.2/P-31/2012 to registration.

Writ Petition No.929 of 2013 is filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the Appeal No.1/2012/A1 dated 30.11.2012 on the file of the 1st respondent confirming the order dated 8.8.2012 on the file of the 2nd respondent and quash the same and consequently direct the 2nd respondent to admit the document viz. sale deed dated 25.5.2012 vide No.1/P-30/2012 to registration.

For Petitioners : Mr.G.Ashokapathy
For Respondents : Mrs.P.Rajalakshmi, Govt. Advocate.

COMMON ORDER

The present writ petitions have been filed seeking issuance of a writ of certiorarified mandamus calling for the records relating to the Appeal Nos.2/2012/A1 and 1/2012/A1 dated

30.11.2012 on the file of the 1st respondent confirming the order dated 8.8.2012 on the file of the 2nd respondent and quash the same and consequently direct the 2nd respondent to admit the document viz. sale deed dated 25.5.2012 vide No.2/P-31/2012 and 1/P-30/2012 to registration.

2. Heard the learned counsel for the petitioners and the learned Government Advocate appearing for the first respondent.

3. The petitioners are aggrieved over the rejection of a petition filed by them for condoning the delay in filing an appeal before the first respondent as against the return of documents vide No.1 P30/2012 and No.2/P-31/2012 on 8.8.2012, refusing to register the same. According to the petitioners, the third respondent represented them that he is the sole and absolute owner of the following dry lands:-

Surve No.	Classification	Extent
140/9	Dry	0.31
140/10	Dry	0.32
140/11B	Dry	0.79
140/12Part	Dry	0.19
140/13	Dry	0.59
140/22	Dry	0.07
140/23	Dry	0.08-1/2
140/24	Dry	0.57-1/2

totalling to an extent of 2 Acres and 93 cents situate at No.13, Nambakkam Village Uthukottai Taluk, Thiruvallur District and situate within the Sub Registration District of Uthukottai and Registration District of Kanchipuram and he has further represented that he is the sole and absolute owner of the following dry lands:-

Survey No.	Classification	Extent
137/3	Dry	0.18
140/23	Dry	0.10-1/2
140/24	Dry	0.09-1/2
140/25	Dry	0.12

totalling to an extent of 0.50 cents situate at No.13, Nambakkam Village Uthukottai Taluk, Thiruvallur District and situate within the Sub Registration District of Uthukottai and Registration District of Kanchipuram and that the said extent

of 50 cents has been apportioned as private passage and he had offered to sell both 2 acre 93 cents and 50 cents for Rs.17,58,000/- and Rs.1,00,000/- respectively, which offer was accepted by the petitioners and they paid the entire sale consideration to the third respondent and acquitted them from any further payment for the conveyance of the aforesaid lands. Therefore, sale deeds dated 25.5.2012 with respect to both the properties were executed between the petitioners and the third respondent at the office of the second respondent in the presence of witnesses and the documents were presented for registration on the same day between 12 noon and 1.00 pm. On scrutinizing the documents, the second respondent directed the parties to come by 2.00 or 2.15 pm. However, the third respondent, inspite of repeated phone calls from the petitioners, failed to appear before the second respondent to admit the execution and registration of the documents and hence, the documents were kept pending. Therefore, the petitioners sought for compulsory registration and thereby notices were sent to the third respondent by the second respondent, and hence, the second respondent returned the documents refusing to register the same. Aggrieved against the same, the petitioners have filed appeal Nos.1/2012 and 2/2012 under section 72(1) of the Registration Act, 1908, before the first respondent alongwith application under section 5 of the Limitation Act for condoning the delay of 32 days delay in filing the appeals by assigning valid and bona fide reasons. However, the first respondent had passed orders on 30.11.2012, rejecting the appeals on the ground that they were barred by limitation. Hence, the present writ petition has been filed.

4. When the matters were taken up for consideration, learned counsel for the petitioners submitted that the appeals of the petitioners were rejected by the first respondent only on the ground that they were filed with a delay of 32 days and the first respondent has no authority to condone the delay. He would further submit that the petitioners may be given an opportunity to putforth their case in appeal and rejection of their appeal only on the ground that they are time barred, they would be put to great loss and irreparable hardship.

5. Therefore, in the interest of justice, this court is of the view that an appropriate direction needs to be given to the first respondent and accordingly, the first respondent is directed to condone the delay, number the appeals and take up the same on file and dispose of the same by affording an opportunity to the petitioners as well as the third respondent within a period of six weeks from the date of receipt of copy of this order.

6. The writ petitions are disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

ssk.

s/d-

Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

To

1. The District Registrar,
Kanchipuram.

2. The Sub Registrar,
Uthukkottai, Thiruvallur District.

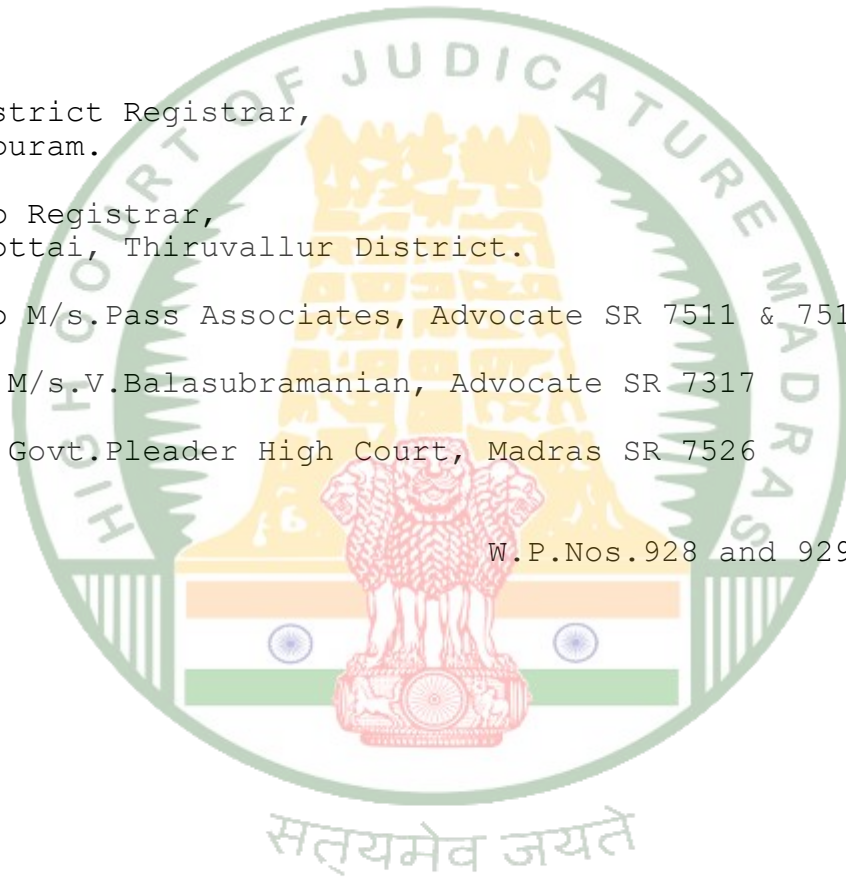
+ 2 ccs to M/s.Pass Associates, Advocate SR 7511 & 7512

+ 1 cc to M/s.V.Balasubramanian, Advocate SR 7317

+ 1 cc to Govt.Pleader High Court, Madras SR 7526

rsk(co)
prk8/2

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