

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.20193 of 2016

1.M.N.Subramaniam

2.M.N.Vijayashankar

3.M.N.Rangamani Petitioners
(petitioners 1 & 2 represented
by their Power Agent, the 3rd petitioner)

Vs.

1. The Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.

2. The District Revenue Officer (Stamps),
O/o Chennai Collectorate,
Singaravelan Maligai,
Chennai - 600 001.

3. The Sub Registrar of Registration,
Padappai,
Kancheepuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of certiorarified mandamus calling for the records pertaining to the orders passed by the 1st respondent in Mu.Mu.No.411/N1/2016 dated 06.05.2016 and quash the same and consequently, direct the 1st respondent to decide the appeal dated 05.04.2009 filed under Section 47-A (5) of the Indian Stamp Act on merits relating to the Documents Nos.2307 to 2309 of 2002 on the file of the 3rd respondent.

For Petitioners : Mr.S.Kamadevan

For Respondents : Mr.R.A.S.Senthilvel
Additional Government Pleader

O R D E R

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

2. The petitioners had purchased the agricultural lands comprised in S.F.No.384/3 at Padappai Village ad-measuring to an extent of 25 cents each and 94 cents respectively aggregated in 1.44 acres under three separate sale deeds dated 13.03.2002 and the sale deeds were presented for registration before the third respondent and registered as Document Nos.2307, 2308 and 2309 of 2002 respectively on 24.10.2002. However, despite the registration of the sale deeds, those documents were not returned and on enquiry, came to know that the third respondent has formed an opinion that the sale transactions were undervalued and therefore, referred the matter to the second respondent for determination under Section 47-A of the Indian Stamp Act and as per the determination, the petitioners were called upon to pay differential stamp duty at the rate of Rs.34,880/- per cent and it was also confirmed by the second respondent vide order dated 27.03.2006. The petitioners, aggrieved by the final orders passed by the second respondent dated 27.03.2006, under Section 47-A of the Indian Stamp Act, preferred an appeal before the first respondent on 09.04.2009 and it was returned on 26.06.2009. The petitioners have re-presented the same on 05.01.2016 stating among other things that the appeal memorandum was preferred and handled by a counsel and the returned papers have not been taken by him, which resulted in delay. However, the first respondent has rejected the appeal memorandum itself stating that the appeal came to be preferred after nine years from the date of order. Challenging the legality of the said order, the present writ petition is filed.

3. The learned counsel appearing for the petitioners has drawn the attention of this Court to Section 47-A (5) of the Indian Stamp Act, 1899 r/w Rule 9 of the TamilNadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 and would submit that technically, it is a case of re-presentation only for the reason that the appeal was preferred on time and however, misconstruing the same, the first respondent has erroneously returned the appeal papers stating that the appeal itself came to be presented belatedly and prays for interference.

4. Per contra, Mr.R.A.S.Senthilvel, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that even for the sake of arguments that it is only the case of representation delay, the delay itself is enormous and therefore, the first respondent has

rightly rejected the appeal memorandum and prays for dismissal of the writ petition.

5. This Court has considered the rival submissions and also perused the materials before this Court.

6. The petitioner, challenging the legality of the final order dated 27.03.2006 passed by the second respondent, filed an appeal before the first respondent and it was returned on 26.06.2009 and re-presented only on 05.01.2016. The explanation offered by the petitioner for the belated representation is that since the matter was handled by a counsel, they could not follow it up. In the considered opinion of this Court, the appeal was preferred on time and the delay pertains only to re-representation of the appeal papers.

7. This Court, taking into consideration of the facts and circumstances, is of the view that an opportunity is to be afforded to the petitioners to contest the appeal on merits and considering the fact that the delay is nearly seven years, is of the view that for ordering this petition, the petitioners have to be put on terms.

8. In the result, this writ petition is allowed and the impugned order dated 06.05.2016 is set aside subject to the condition that the petitioners shall jointly and severally pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the Spastics Society of Tamil Nadu, Taramani, Chennai -600 113 within a period of two weeks from the date of receipt of a copy of this order. No costs.

Call on 04.07.2016 for passing further orders as to the compliance.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsm

To

1. The Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.

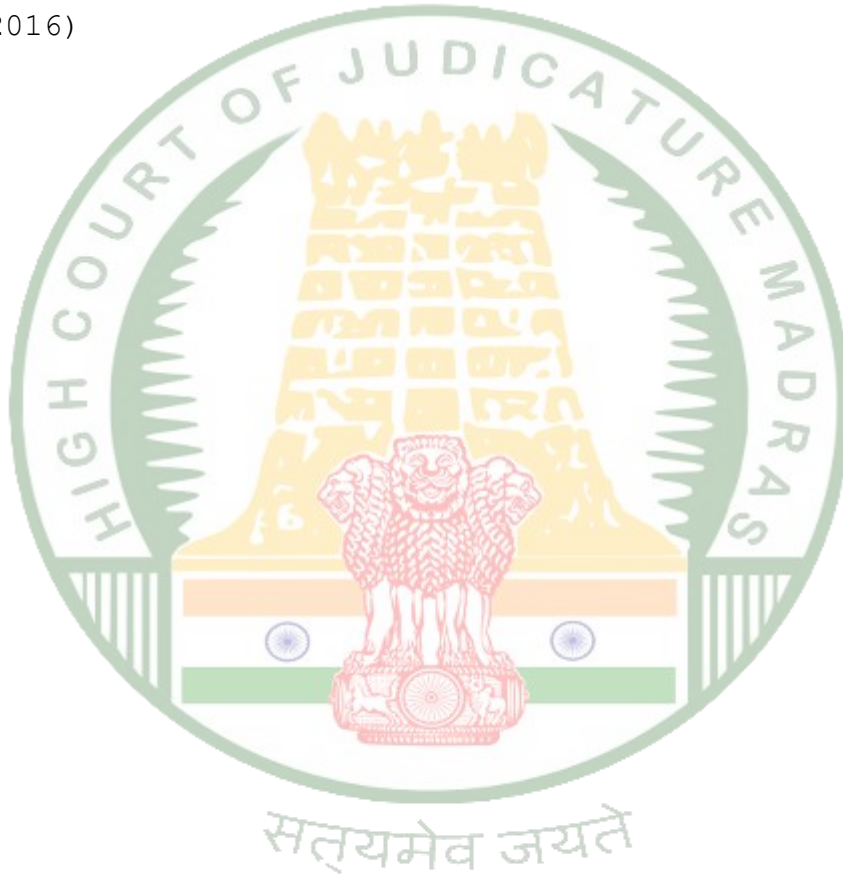
2. The District Revenue Officer (Stamps),
O/o Chennai Collectorate,
Singaravelan Maligai,
Chennai - 600 001.

3. The Sub Registrar of Registration,
Padappai,
Kancheepuram District.

+1cc to Mr.S.Kamadevan, Advocate, S.R.No.32500
+1cc to the Government Pleader, S.R.No.32973

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ALA (CO)
CA (24/06/2016)



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