IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.8878 of 2016

G.M.R.Raveendran .. Petitioner

vs.

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

2. The Special Deputy Collector (Stamps)
   Vellore - 632 009.

3. The Joint Sub-Registrar-II,
   Arakkonam,
   Vellore District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in his Proceedings in Pa.Mu.No.23198/N3/2015, dated 01.02.2016 and quash the same and to direct the first respondent to decide the petitioner's appeal, dated 18.05.2015 filed under Section 47A(5) of the Indian Stamps Act on merits.

For Petitioner : Mr.G.Jeremiah
For Respondents : Mr.V.Jayaprakash Narayanan, Spl.G.P

O R D E R

The petitioner has filed the above writ petition, seeking an order to issue a writ of certiorarified mandamus, calling for the records of the first respondent in his Proceedings in Pa.Mu.No.23198/N3/2015, dated 01.02.2016 and quash the same and to direct the first respondent to decide the petitioner's appeal, dated 18.05.2015 filed under Section 47A(5) of the Indian Stamps Act on merits.

2. The petitioner had purchased a vacant site in T.S.No.89, S.No.220/7, Ward B, Block 10, having an extent of 2375 sq.ft, situated at Stuartpet, Arakkonam Town for a sale consideration of Rs.4,75,000/- and the said document was presented for registration before the third respondent herein.

The petitioner has stated that at the time of the purchase, the Guide line value fixed by respondents was Rs.5060/- per sq.meter and accordingly, necessary stamp duty was fixed on the instrument.

3. According to the petitioner, to his shock and surprise, the third respondent applied a higher guide line value of Rs.14,120/- per sq.meter and when he refused to pay the difference in stamp duty, the third respondent registered the instrument as Doc.No.10875 of 2009 and having reason to believe that the market value of the property conveyed under the instrument was not truly set forth, referred the instrument to the second respondent under Section 47A of the Indian Stamp Act for determination of the stamp duty payable on the instrument.

4. The petitioner further submits that upon receipt of the instrument, the second respondent provisionally determined the stamp duty payable and issued a notice in Form I in C.P.No.1601/09 AKM II, dated 21.12.2009 and upon receipt of the same, he submitted his objections on 27.12.2009. However, no final order had been passed under Section 47A(2) by the second respondent. After lapse of several years, the petitioner submitted an appeal to the first respondent, who i turn, by proceedings in No.577750/No.3/11, dated 06.03.2012 directed the petitioner to present the appeal after receipt of the final order issued by the second respondent.

5. Thereafter, the petitioner, on 28.12.2009 once again approached the second respondent to pass final orders. A similar representation was also submitted on 13.08.2013. Then on 01.01.2014, the petitioner also addressed the District Collector in this regard. After several correspondence and request, the second respondent, served a copy of the order in C.P.No.1661/09 AKM II, dated 19.04.2012, confirming his proposal to levy stamp duty of Rs.20,58,24/- on the instrument, bearing Doc.No.10875/09, dated 04.11.2009. The said order was only signed on 05.05.2015 and served on the petitioner only the said date. Upon the receipt of the order, dated 19.04.2012 served on 05.05.2015, the petitioner on 18.05.2015 itself filed an appeal to the first respondent.

6. The first respondent had rejected the appeal of the petitioner as being time barred, by order, dated 01.02.2016 stating that the appeal could have been filed within 2 months and that there is an inordinate delay of 3 years and 29 days. Hence, the petitioner has come forward with the present writ petition, seeking for the relief as stated supra.

7. Learned counsel appearing for the petitioner submitted that there was no delay in filing the appeal, whereas the order of the second respondent, dated 19.04.2012 was served to the

petitioner only on 05.05.2015 and immediately, on 18.05.2015 the petitioner has filed the appeal without any delay and hence, submitted that the delay is only on the part of the respondents.

8. Earlier, when the matter came up, this Court directed the AGP to produce the records and today, on production of the same, it is clear that the petitioner had received the order copy only on 05.05.2015. Therefore, I find some genuineness in the contention made by the learned counsel appearing for the petitioner that the appeal was filed without any delay.

9. Hence, I am of the view that though there is an inordinate delay, since it is not on the part of the petitioner, in the interest of justice, the delay is liable to be condoned and accordingly, the delay is condoned.

10. In view of the above, the order of the first respondent made in Pa.Mu.No.23198/N3/2015, dated 01.02.2016 is set aside and the first respondent is directed to restore the appeal of the petitioner, dated 18.05.2015 on file and dispose the same on merits, uninfluenced by the findings of this Court, if any, within a period of two months from the date of receipt of a copy of this order.

11. With the above observations, this writ petition is disposed of. No costs.
tsvn

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

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

2. The Special Deputy Collector (Stamps)
Vellore - 632 009.

3. The Joint Sub-Registrar-II,
Arakkonam,
Vellore District.

+ 1 cc to Mr.G.Jermiah, Advocate SR 16416

ad(co)
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