BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2016

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P(MD).No.2008 of 2013 and
M.P(MD).No.1 of 2013 and MP(MD).No.1 of 2014

Rani ... Petitioner

Vs.

1. The Chief Controlling the Revenue Authority,
Cum- the Inspector General,
Registration Department, Chennai.

2. The Special Deputy Collector,
(Stamp Duty), Collectorate Complex,
Thiruchirappalli. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certioraified Mandamus calling for the records pertaining to the impugned order issued by the first respondent in his proceedings in Mu.Mu.No.No.61894/N4/2012 dated 06.01.2013 and quash the same as illegal and arbitrary and consequently direct the first respondent to entertain the appeal dated 21.12.2012 of the petitioner and to decide the same on merits and in accordance with law.

For Petitioner : Mr.K.N. Govardhanan
For Respondent : Mr.N.S. Karthikeyan
Additional Government Pleader

ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned order issued by the first respondent in his proceedings in Mu.Mu.No.No.61894/N4/2012 dated 06.01.2013 and quash the same as illegal and arbitrary and consequently direct the first respondent to entertain the appeal, dated 21.12.2012 of the petitioner and to decide the same on merits and in accordance with law.

2. The petitioner challenging the order passed by the first respondent rejecting the petitioner's appeal filed under Section 47(A) of the Indian Stamp Act, 1899 on the ground that appeal has been filed beyond the period of Limitation prescribed under the

Tamilnadu Stamps Act and also the petitioner did not file copy of the final order passed by the second respondent.

3. According to the petitioner, no notice was given to the petitioner by the second respondent before passing final order under Section 47(A) of the Act and the final order was also not communicated to him. Subsequently, revenue officials initiated proceedings under Section 47(A)(1)(3) of Indian Stamp Act. Immediately, he filed an appeal along with a petition to condone the delay in filing an appeal. But, the first respondent without considering the same mechanically rejected the appeal. The second respondent filed counter affidavit stating that the second respondent sent notice dated 03.02.2013 and thereafter, final order has been passed on 27.02.2014. Even after the final order passed, the petitioner did not pay the deficit stamp duty. Further, the second respondent only mentioned about the final order passed and it was not mentioned about when the order has been communicated to the petitioner. In the absence of any proof, it cannot be held that the petitioner has received the final order. In such circumstances the petitioner filed an appeal along with petition for delay in filing an appeal. Without considering the same, the first respondent mechanically rejected the appeal stating that appeal has been filed with delay.

4. Now, the learned counsel appearing for the petitioner submitted that he already obtained copy of the final order through Right to Information Act and he is willing to file the same in appeal.

5. Heard the Additional Government Pleader appearing for the respondents.

6. In the above said circumstances, the order passed by the first respondent in his proceedings in Mu.Mu.No.No.61894/N4/2012 dated 06.01.2013 is hereby set aside and the delay in filing the appeal is condoned. Further, the first respondent is directed to number the appeal and consider the same and pass orders on merits and in accordance with law within a period of Eight weeks from the date of receipt of a copy of this order and The petitioner is directed to cooperate with the respondents.

7. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To
1. The Chief Controlling the Revenue Authority,
Cum- the Inspector General,
Registration Department, Chennai.

2. The Special Deputy Collector,
(Stamp Duty), Collectorate Complex,
Thiruchirappalli.

+1 cc to MR.K.N.GOVARDHANAN, ADVOCATE SR.NO.62439
+1 CC TO SPECIAL GOVERNMENT PLEADER SR.NO.62303

W.P(MD).No.2008 of 2013 and
M.P(MD).No.1 of 2013 and MP(MD).No.1 of 2014
19.10.2016

SMA/SS-2-KSM/25.01.2017:3P/5C