

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.39558 OF 2015

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue.

The petitioner questions the order passed by the 3rd respondent - District Registrar, Vizianagaram refusing to entertain the appeal filed by him under Section 72 of the Stamps and Registration Act on the ground that it is barred by time.

The petitioner has specifically stated in paragraph 4 of the affidavit that refusal order dated 14.09.2015 was dispatched to him on 09.10.2015 and received on 13.10.2015 and that he has filed appeal immediately on 14.10.2015 which was acknowledged by the 3rd respondent on 17.10.2015 and accordingly the appeal is well within the time stipulated under Rule 165(1) of the Rules framed under the Registration Act.

The 3rd respondent, however, has filed the counter affidavit specifically stating in paras 7 and 8 as follows:

“7. It is submitted that under Registration Rule 166(i) an appeal under Section 72 shall be presented either by the appellant or by a pleader duly authorized on his behalf by a vakalat attested in the manner prescribed in the Civil Rules of Practice applicable to civil Courts or by an agent holding a power of attorney as laid down in Section 33 of Registration Act and under Registration Rule 166(iii) an appeal shall not be accepted or acted upon if sent by post.

8. The petitioner without observing the provisions of Section 72 of Registration Act and Registration Rule 165(i), 166(i) (ii) simply sent a representation in a letter from which was received in the office of the 3rd respondent on 17.10.2015, without enclosing the original document. As per the provisions of Section 72 of the Registration Act, the appeal must be presented within 30 days from the date of order of refusal. The refusal order was passed on 14.09.2015. At the latest the appeal must be filed on or before 14.10.2015.”

Evidently, the limitation for filing appeal would commence from the date of communication of the order of refusal to the petitioner. Since the petitioner is stated to have been communicated the order of refusal only on 13.10.2015, it is impossible to accept that the petitioner would file appeal before communication of the refusal order. Though the date of order of refusal may be dated 14.09.2015, it was communicated to the petitioner only on 13.10.2015 (which fact is not controverted in the counter affidavit filed by the 3rd respondent). The appeal received by the 3rd respondent on 17.10.2015 is apparently well within the time. Hence, the impugned order of the 3rd respondent is set aside and that the 3rd respondent is directed to entertain, examine and dispose of the appeal in accordance with law.

With the above direction, the writ petition is disposed of.

Miscellaneous petitions, if any, pending in the writ petition shall stand closed. There shall be no order as to costs.

VILAS V.AFZULPURKAR, J

27.01.2016
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