IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2017

CORAM:
THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Civil Miscellaneous Appeal No. 182 of 2016
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Ammasaiyappan .. Appellant/Appellant

Versus

1. The Chief Controlling Revenue Authority
   -cum-Inspector General of Registration
   No.100, Santhome High Road
   Chennai - 600 028

2. The District Revenue Officer (Stamps)
   District Collectorate
   Coimbatore - 18

3. The Joint-I Sub Registrar
   Tiruppur .. Respondents

Appeal filed under Section 47-A (10) of The Indian Stamp Act, 1899 against the Order dated 15.12.2015 passed in Pa.Mu.No.38605/N2/2015 on the file of the first respondent.

For Appellant : Mr.E.Om.Prakash,
Senior Counsel for
Mr. R. Bharath Kumar

For Respondents: Mr. T. Jeyaramaraj
Government Advocate (Civil Suits)

JUDGMENT
(Judgment of the Court was delivered by R. SUBBIAH, J)

The appellant has come forward with this appeal questioning the correctness of the order of dismissal dated 15.12.2015 passed by the first respondent, confirming the order dated 16.12.2008 passed by the second respondent.

2. The case of the appellant is that he presented the sale deed dated 13.09.2007 for registration and it was registered as document No. 9688 of 2007 on the file of the third respondent. The land covered under the said sale deed dated 13.09.2007 measures an extent of 34880 square feet together with a building measuring 6705 square feet. The sale

consideration indicated in the sale deed dated 13.09.2007 was Rs.56,30,000/- and he had paid a sum of Rs.4,50,400/- as stamp duty together with registration fee of Rs.56,450/-. After registration of the sale deed, based on the request made by the third respondent to initiate proceedings under Section 47-A of the Indian Stamp Act, the second respondent issued a notice dated 26.04.2008 stating that the appellant did not pay the correct stamp duty payable at the time of registration of the sale deed dated 13.09.2007. On 14.05.2008, the appellant submitted his objections. According to the appellant, the second respondent without properly considering the objections raised by him, has passed a final order dated 16.12.2008 determining the market value of the property at Rs.4,71,46,948/- and called upon him to pay the deficit stamp duty of Rs.33,21,320/-. On receipt of the order dated 16.12.2008, the appellant has submitted a representation dated 20.01.2009 to the second respondent requesting to re-consider his case. Subsequently, the appellant sent another representation dated 07.07.2011. Thereafter, the appellant was advised to file an appeal before the First Respondent and accordingly, the appellant preferred a statutory appeal on 23.03.2012. However, the first respondent has rejected the appeal preferred by the appellant as time barred. Aggrieved by the same, the appellant filed WP No. 7378 of 2015 before this Court and this Court, quashed the order of return passed by the first respondent and directed the appellant to file an application for condonation of delay in filing the appeal. As per the directions of this Court, the appellant filed a petition for condonation of delay in preferring the statutory appeal and that was also rejected by the first respondent by an order dated 28.05.2015. Challenging the order dated 28.05.2015, the appellant has filed WP No. 23225 of 2015 before this Court. By order dated 31.07.2015, this Court, allowed the writ petition by setting aside the order dated 28.05.2015 passed by the first respondent on condition the appellant submit to pay a sum of Rs.10,000/- to the Secretary, The College Students and Graduate Associations of the Blind, Thakkar Baba Vidyalaya Building, Venkatanarayana Road, Nandanam (T. Nagar), Chennai - 600 017 on or before 14.08.2015. Accordingly, the appellant has also paid the costs of Rs.10,000/- which was recorded by this Court in the order dated 14.08.2015. Hence, this Court has directed the first respondent to take up the appeal on file and dispose the appeal in accordance with law within a period of six weeks. Pursuant to the order passed by this Court, the first respondent has passed the order dated 15.12.2015 rejecting the appeal preferred by the appellant. Challenging the same, the appellant has come forward with this appeal.

3. The main contention urged on behalf of the appellant is that the reasons assigned by the first respondent, while rejecting the appeal preferred by the appellant, is that the appellant did not prefer the appeal within the time stipulated and the appeal is belated. According to the counsel for the appellant, this Court, in the order dated 31.07.2015, set aside the order dated 28.05.2015 passed by the first respondent on

condition the appellant submits to pay a sum of Rs.10,000/- to the Secretary, The College Students and Graduate Associations of the Blind, Thakkar Baba Vidyalaya Building, Venkatanarayana Road, Nandanam (T. Nagar), Chennai – 600 017 on or before 14.08.2015. Accordingly, the appellant has also paid the costs of Rs.10,000/- which was also recorded by this Court in the order dated 14.08.2015. Thus, the delay in filing the appeal was condoned by this Court in the order dated 31.07.2015. While so, the first respondent is not justified in rejecting the appeal preferred by the appellant only on the ground of delay in filing the same. In any event, the first respondent did not venture to go into the correctness or otherwise of the order passed by the Original Authority while rejecting the appeal. Further, the first respondent did not assign any reason for confirming the order passed by the second respondent. In any event, when this Court has condoned the delay in filing the statutory appeal, the first respondent is not justified in dealing with the same in the order dated 15.12.2015 for rejecting the appeal preferred by the appellant and therefore he prayed for setting aside the order passed by the first respondent.

4. On the above contentions, we have heard the learned Government Advocate (Civil suit) appearing for the respondents who would contend that the first respondent has passed a detailed order while confirming the order passed by the second respondent. The first respondent has tabulated the value of the land indicated in the sale deed presented by the appellant, the guideline value maintained in the office of the third respondent and the differential amount payable by the appellant. Further, before passing the order dated 15.12.2015, the appellant was given an opportunity of hearing and he was also heard and thereafter, the first respondent has passed the order of rejection. In any event, the first respondent considered the grounds urged by the appellant in the appeal. The first respondent, in exercise of his statutory power has rightly passed the order of rejection and it calls for no interference by this Court.

5. We have perused the order passed by the first respondent on 15.12.2015, which is impugned in this appeal. On perusal of the order, we find that the first respondent has mostly dealt with the delay on the part of the appellant in preferring the appeal and there was no discussion as to whether the order of the second respondent is legally sustainable or not. In other words, we find that the first respondent did not assign any independent reason for fixing the value of the lands in question on the basis of the available records. When this Court has condoned the delay on the part of the appellant in preferring the statutory appeal before the first respondent, the first respondent ought not to have dealt with the same in the impugned order of rejection or to take note of the delay in preferring the statutory appeal as one of the reasons for rejecting the appeal preferred by the appellant. In such view of the matter, in the interest of justice, we are of the opinion that the order dated 15.12.2015 passed by the first

respondent, rejecting the statutory appeal preferred by the appellant, is legally not sustainable. Therefore, we are inclined to set aside the order dated 15.12.2015 and remand the matter back to the first respondent for fresh consideration of the appeal preferred by the appellant on merits.

6. Accordingly, we set aside the order dated 15.12.2015 passed by the first respondent rejecting the statutory appeal filed by the appellant and consequently, we allow the Civil Miscellaneous Appeal. No costs. The matter is remanded back to the first respondent for fresh consideration. The first respondent is directed to take up the appeal preferred by the appellant and to deal with it on its own merits and to pass order thereon in accordance with law by determining the correct market value payable by the appellant on the sale deed dated 13.09.2007 registered as document No. 9688 of 2007 on the file of the third respondent, within a period of four weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Controlling Revenue Authority
-cum-Inspector General of Registration
No.100, Santhome High Road
Chennai - 600 028

2. The District Revenue Officer (Stamps)
District Collectorate
Coimbatore - 18

3. The Joint-I Sub Registrar
Tiruppur.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.58690
+1cc to the Government Pleader, S.R.No.58331

C.M.A. No. 182 of 2016

GN(02/11/2017)