

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM:

THE HON'BLE MR. JUSTICE HULUVADI G. RAMESH
AND
THE HON'BLE MR. JUSTICE A.D. JAGADISH CHANDIRA

W.A. No.727 of 2017

K. Kanagarajan ...Appellant/Petitioner

vs.

The Principal Commissioner &
Commissioner of Revenue Administration
O/o the Revenue Administrative Officer
Chepauk
Chennai 600 005

...Respondents/Respondent

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 04.10.2016 passed by this Court in W.P.No.35029 of 2016.

Prayer in W.P.No.35029 of 2016:-Writ Petition filed Under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondent to consider the representation dated 19.08.2015 and remainder dated 18.04.2016 and 22.06.2016 seeking to reconsider the application for alteration of date of Birth.

For appellant Mr. K.A. Ramakrishnan
for Mr. J. Shanmugasundarababu
For respondent Mrs. A. Srijayanthi
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH, J.)

This intra Court appeal is directed against the order dated 04.10.2016 passed by a learned Single Judge in W.P. No.35029 of 2016.

2 For the sake of brevity, the parties are referred to as per their litigative status in this intra Court appeal.

3 A vignette of the facts leading to the filing of this intra Court appeal would suffice:

3.1 The appellant, who was appointed as Junior Assistant through the Tamil Nadu Public Service Commission on 11.12.1986, submitted applications to the respondent on 22.11.1991 and 10.08.1992 seeking alteration of his date of birth as 12.02.1962 instead of 15.10.1960. The said applications were forwarded by the respondent to the Revenue Divisional Officer, to conduct an enquiry. The Revenue Divisional Officer, after obtaining statements from the appellant's family members, conducted an enquiry and forwarded the appellant's applications to the respondent, recommending the appellant's claim of alteration of date of birth.

3.2 Notwithstanding such recommendation, the appellant's claim was rejected by the respondent on 05.07.1993 stating inter alia that the appellant had not furnished the copy of birth register of some of his relatives and that he had also not furnished the copy of death register of some, who, according to him, are no more.

3.3 Following the rejection of his claim, the appellant sent representations to the respondent in 1993, 1995, 2000 and 2010 to reconsider his claim for alteration of his date of birth. Inasmuch as the said representations were not given heed to by the respondent, the appellant addressed another representation in 2015 followed by two reminders in April 2016 and June 2016.

3.4 Aggrieved by the pendency of his claim qua alteration of his date of birth, the appellant preferred the writ petition seeking a mandamus to the respondent to consider his representations made in 2015 and 2016.

3.5 The learned Single Judge, noticing that the appellant had not put to challenge, the rejection order dated 05.07.1993 passed by the respondent for more than two decades and that, if the relief sought by the appellant is granted, it would be tantamount to renewing a stale claim resulting in adverse consequences as held by the Supreme Court in A.P.S.R.T.C. vs. G. Srinivas Reddy¹, dismissed the writ petition vide order dated 04.10.2016, challenging with, this intra-Court appeal has been preferred.

4 Heard the learned counsel for the appellant and the learned Special Government Pleader appearing for the respondent.

5 The main contention put forth by the learned counsel for the appellant is that the learned Single Judge's finding that the appellant has not challenged the rejection order is misconceived, inasmuch as, there is no appeal remedy as against the order passed by the respondent.

6 The aforesaid contention does not have legs to stand for the reason that even assuming without conceding that there is no appeal remedy as against the rejection order, had the appellant been really aggrieved by the rejection order, he could have very well preferred a writ petition challenging the legality and validity of the rejection on the heels of the same being passed and for the reasons best known to the appellant, he had not chosen to take such recourse. Instead, he had kept on addressing representations one after the other. It is pertinent to point out that repeated representations will not cure limitation. Perhaps, smelling that he has got a weak claim, the appellant has resorted to the method of sending repeated representations and then, cleverly filed the writ petition seeking a writ of mandamus to consider his representations, expecting that the writ petition with a prayer to the limited scope of considering his representations, would be disposed of mechanically. Unfortunately for the appellant, the learned Single Judge, noticing the delay, laches and acquiescence on the part of the appellant in challenging the rejection order and observing that because of his inaction, the rejection order has become final, dismissed the writ petition.

7 In view of the above discussion, we see no reason whatsoever warranting interference with the order passed by the learned Single Judge, especially, in the light of the judgment of the Supreme Court in G.Srinivasa Reddy (supra).

Ex consequenti, this intra Court appeal is liable to be dismissed and is accordingly dismissed. Costs made easy.

सत्यमेव जयते

Sd/-

Assistant Registrar(J)

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Sub Assistant Registrar

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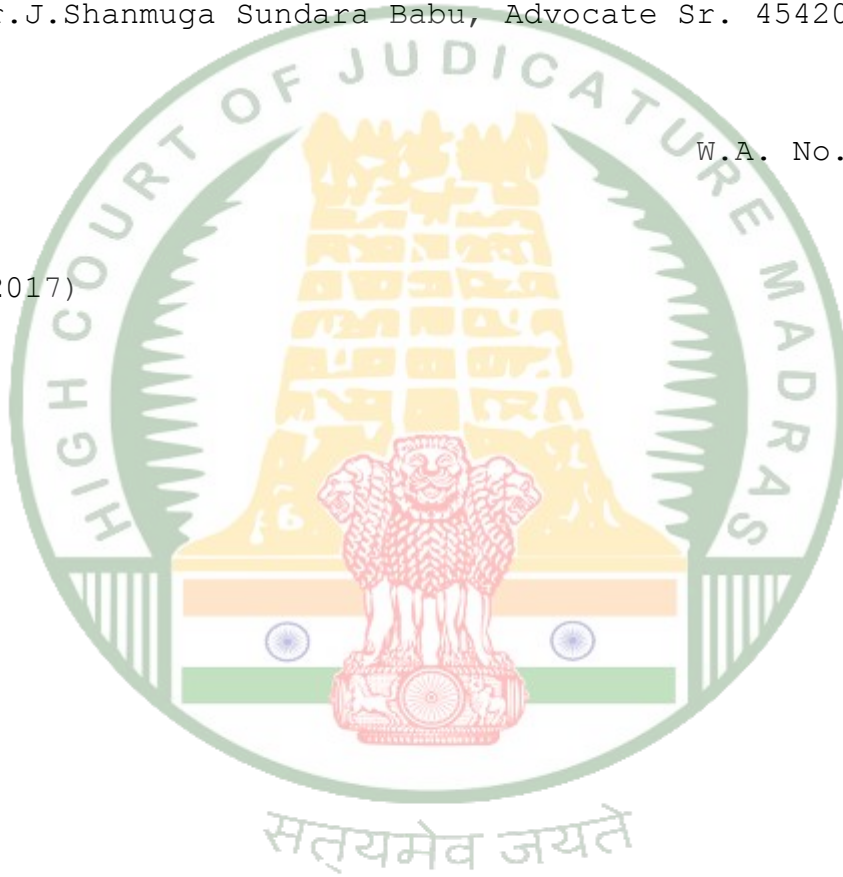
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+1cc to Government Pleader, High Court, Madras Sr. 45865

+1cc to Mr.J.Shanmuga Sundara Babu, Advocate Sr. 45420

W.A. No.727 of 2017

SJ(CO)
VR(02/08/2017)



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