IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.14179 of 2004
& W.P.M.P.No.16747 of 2004

M.A.Saravanan .. Petitioner

Vs.

1. The Inspector General of Registrations,
Office of the Inspector General Registrations,
Chennai - 600 028.
2. The Special Deputy Collector (Stamps),
Office of the Collectorate,
Tirchirappalli. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified Mandamus, calling for the records relating to the proceedings in ROC.No.19192/N4/04, dated 29.04.2004 on the file of the 1st respondent and quash the same and consequentially direct the 1st respondent to take the appeal of the petitioner on the file and dispose on merits.

For Petitioner : M/s.P.V.Rajeswari
For Respondents : Mr.R.Venkatesh, G.A.

ORDER

The petitioner has come forward with this writ petition to call for the records relating to the proceedings in ROC.No.19192/N4/04, dated 29.04.2004 on the file of the 1st respondent and quash the same and consequentially direct the 1st respondent to take the appeal of the petitioner on the file and dispose on merits.

2. The case of the petitioner is that he has purchased a joint property in the name of his wife and himself and registered as Document No.2145 of 2000 in the Office of the Sub-Registrar, Pudukkottai. The market value of the property set forth in the instrument at Rs.4,95,500/- and Rs.60,000/- was paid as stamp duty. It is submitted that the Sub Registrar has again valued the property at Rs.22,88,320/- and arrived at the stamp duty payable at Rs.2,74,608/- and also called upon him to

pay Rs.17,890/-.

3. The petitioner represented that the value fixed was very high and requested for reduction. The Sub Registrar, under the "Samadhan Scheme", by proceedings dated 28.12.2002 asked him to pay 60% of the assessed stamp duty. In the meantime, the 2nd respondent-the Special Deputy Collector (Stamps) had issued Form-2 notice under Section-47-A of the Indian Stamps Act on 24.04.2003 stating that his property was valued at Rs.19,97,900/- and called upon him to pay stamp duty at Rs.2,39,748/-, wherein the building was valued at Rs.3,02,570/-. According to the petitioner, the provisional assessment made on 24.04.2003 would be taken for consideration for final assessment on 16.05.2013 and it was pending final assessment of the market value of the property. The petitioner sent a letter dated 23.12.2003 for reduction of market value as no final assessment was made under Form III. But, he was informed that final order of assessment was passed. Hence, the petitioner filed an appeal before the 1st respondent on 10.04.2004, which was rejected by him on 29.04.2004, which is against law and violative of the fundamental rights. Hence, the petitioner filed this petition.

4. The learned counsel for the second respondent has filed counter affidavit stating that the disputed land was registered below the guideline value and hence the instrument was referred to the 2nd respondent under Section 47(A)(1) of the Indian Stamp Act, for proper valuation. On 01.12.2000, notice in Form-I was sent to the petitioner to pay the deficit stamp duty of Rs.2,14,608/-. Subsequently, after site inspection by the Special Tahsildar (Stamps), Form-II notice was issued on 24.04.2003 to remit the balance amount of Rs.1,79,748/- or to represent his case, if any, in person on or before 16.05.2003. As the petitioner failed to avail the opportunity, final orders confirming the earlier order was issued on 30.05.2003 for remittance within 60 days. The appeal preferred by him after a lapse of 9 months and 10 days, was rejected as time barred by the 1st respondent in his proceedings dated 29.04.2004 in ROC.No.19192/N4/04. Aggrieved by the said order of rejection of appeal on the ground of delay, the petitioner has come up with the writ petition.

5. Heard both sides and perused the materials on record.

6. Admittedly, the order dated 30.05.2003 is said to have been dispatched on 03.06.2003, but it was actually dispatched on 23.03.2004 and there was no document to show that it was dispatched on 03.06.2003, except the endorsement made by the department. Hence, the appeal filed by the petitioner before the 1st respondent on 10.04.2004 is without delay. It is open to the authorities to take up the appeal and pass orders, within a

period of one month from the date of appearance of the petitioner before the authority. The petitioner is directed to appear before the authority on 04.12.2017. The original documents have been verified by this Court and handed over to the learned Government Advocate.

7. With the above observation and direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

pvs

To
1. The Inspector General of Registrations,
Office of the Inspector General Registrations,
Chennai - 600 028.

2. The Special Deputy Collector (Stamps),
Office of the Collectorate,
Tirchirappalli.

+1cc to Mrs.Vedavalli kumar Advocate, S.R.No. 78898

+1cc to the Government Pleader, S.R.No. 78991/17

W.P.No.14179 of 2004

GP(CO)
TR(20/11/2017)