IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.35616 of 2003

P.Mery ... Petitioner

Vs.

1 The Inspector General of Registration,
Santhome High road
Chennai - 600 004.

2.The Special Deputy Collection,
(Stamps), Thanjavur,

3.The Sub Registrar,
Karuntattankudi.

4. The Thasildar
Taluk Office,
Thanjavur. ...Respondents

Prayer: This writ petition filed under Article 226 of the Constitution of India, to issue an order of writ of certiorari, calling for the records of the 2nd respondents in S.R.No.57 of 1990 dated 30.01.1996 as confirmed by the 1st respondent in Rc.No.41834/N5/2003 dated 03.10.2003 in respect of document No.233 of 1990 on the file of the 3rd respondent and quash the same as illegal, arbitrary and unenforceable.

For Petitioner : Mr.V.K.Vijayaragavan

For Respondents : Mr.K.Dhanajayan
Special Government Pleader.

ORDER

The writ petition is filed challenging the order to pay the deficit Stamp duty under section 47-A of the Indian Stamp Act, 1899.

2. The learned Special Government Pleader appearing for the respondents submitted that the writ petitioner has not remitted the deficit stamp duty as raised in the demand and consequently, revenue recovery proceedings was also initiated under the Revenue Recovery Act by the Tahsildar Thanjavur, the 4th respondent herein.

3. Challenging the said action, the writ petitioner filed the present writ petition and this Honourable Court granted interim stay in W.P.M.P.No.43276 of 2003 on 05.12.2003. The interim order was granted on condition to the writ petitioner to deposit a sum of Rs.75,000/-(Rupees Seventy Five Thousand Only) before the Sub Collector (Stamps), Thanjavur. The writ petitioner complied with the said condition and remitted a sum of Rs.50,000/- (Rupees Fifty Thousand Only) as deficit stamp duty on 28.01.2004, through State Bank of India, Thanjavur.

4. Admittedly, the learned Special Government pleader has stated that an appeal under section 47-A Sub clause 10 was preferred by the writ petitioner on 21.08.2003 and the said appeal was not entertained and rejected by the Inspector General of Registration, Chennai, vide the impugned order dated 03.10.2003.

5. On perusal of the impugned order the Inspector General of Registration, Chennai has rejected the appeal on the simple ground of delay. No reason has been assigned for such a rejection.

6. Admittedly, the writ petitioner deposited the deficit stamp duty, pursuant to the orders of this Court. Therefore, his appeal deserves to be considered. Further, the appeal under Section 47-A(10), is a right contemplated for the aggrieved persons and such a right cannot be denied. Further, every appeal is to be adjudicated on merits and it should not denied simply on technical grounds. Though, there is a delay, the writ petitioner has approached this Court and obtained an interim order and subsequently, deposited the amount. In view of this, impugned order passed by the first respondent, is quashed and the first respondent is directed to take the appeal on file, issue notice to all the parties concerned and consider the appeal on merits and in accordance with law and thereafter, pass appropriate orders, as early as possible.

7. The writ petition stands allowed on the above terms. There shall be no order as to Costs.

05.05.2017

Index:Yes/No
Internet:Yes/No
msrm/ars

S.M.SUBRAMANIAM,J

msrm/ars

To

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   Santhome High Road,
   Chennai - 600 004.

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   (Stamps), Thanjavur,

3. The Sub Registrar,
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