IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.12.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.19007 of 2004
and
W.M.P.No.275 of 2007

Praveen Kumar .. Petitioner

..Vs..

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

2.The District Revenue Officer (Stamps),
Chennai - 1.

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in No.13439/N 1/2004 dt.30.03.2004 on the file of the 1st respondent and quash the same as illegal and direct the 1st respondent to hear the appeal filed by the petitioner on merit.

For Petitioner :M/s.A.Vinupradha
for S.Ramesh

For Respondents :Mr.P.P.Purushothaman
Government Advocate

O R D E R

The order of the first respondent dated 30.03.2004 is under challenge in the present writ petition.

2.The grievances of the writ petitioner is that the order passed by the second respondent directing the writ petitioner to pay the deficit stamp duty. The petitioner preferred an appeal before the first respondent on 28.02.2004. There is delay of 60 days in filing the appeal before the first respondent.

3. The learned counsel for the petitioner states that, the order of the second respondent had not been communicated to the writ petitioner in time. Thus, the petitioner was not in a position to file the appeal within a time limit prescribed. Thus, the petitioner is not responsible for the delay in filing the appeal and therefore, the first respondent ought to have entertained the appeal filed by the writ petitioner, adjudicate the same and decide on merits. Contrarily, the appeal is rejected on the ground of limitation.

4. This Court is of an opinion that, against the order passed by the first respondent, an appeal before the High Court is provided under Section 47 (A) 10 of the Registration Act. Under the appeal provision, the writ petitioner ought to have filed Civil Miscellaneous Appeal before this Court. Contrarily, the present writ petition is filed and the learned Government Advocate also raised an objection in this regard.

5. This Court is of an opinion that the present writ petition itself is pending before this Court for the past about 14 years. Thus, once again insisting the writ petitioner to file a fresh Civil Miscellaneous Appeal would cause prejudice to the writ petitioner. In the interest of justice, this Court is inclined to direct the first respondent to decide the matter on merits by entertaining the appeal filed by the writ petitioner on 28.02.2004.

6. Accordingly, the order passed by the first respondent proceedings No.13439/N 1/2004 dated 30.03.2004 is quashed. The matter is remanded back to the first respondent for adjudication on merits and in accordance with law and by affording an opportunity to the writ petitioner and thereafter pass final orders within a period of 12 weeks from the date of receipt of a copy of this order. The writ petitioner is directed to enclose the copy of the appeal and other relevant documents along with the order passed in the preset writ petition.

7. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pns

To

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

2.The District Revenue Officer (Stamps),
   Chennai - 1.

+1cc to Mr.S.Ramesh Kumar, Advocate, S.R.No.85809

+1cc to the Government Pleader, S.R.No.86255

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RSI(CO)
GSP(08/01/2019)