IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No. 23285 of 2007
And
M.P.No. 1 of 2007

Mayilathal ... Petitioner

Vs.

Inspector General of Registration
Chennai - 600 028. ...Respondent

PRAYER: This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari-fide Mandamus calling for the records relating to the proceedings made in Mu.Mu.No. 57979/N2/06 dated 19.06.2007/20.06.2007 issued by the respondent and quash the same and consequently direct the respondent to entertain the appeal and conduct an enquiry.

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For Petitioner : Mr. G.Ethirajulu
For Respondent : Mr. P.P.Purushotthaman
Government Advocate

O R D E R

The petitioner, aggrieved by the proceedings of the respondent dated 19.06.2007/20.06.2007; wherein the respondent rejected the petition filed by the petitioner seeking to condone the delay 737 days in filing the appeal under Section 47-A(5) of the Tamil Nadu Stamp Act, has filed the present Writ Petition before this Court.

2. The case of the petitioner is that he has purchased the agricultural lands on 12.09.2011 for a valid consideration of Rs.1 lakh. Accordingly, the document was presented before the Registering Authority on that day itself. After registration of document, the authority found that there was insufficient payment of stamp duty. Accordingly, 47-A proceeding was initiated against the petitioner.

3. The counter affidavit filed by the respondent reveals that one Mr.K.M.Muthusamy executed a sale deed dated 12.09.2001 conveying the agricultural land comprised in S.F.No. 397 Ward

No.7 No.14, Thottipalayam Village, Tiruppur Municipal Town, Tirupur Taluk, in favour of the petitioner and others. The said sale deed was presented for registration before the Joint I Sub Registrar, Tiruppur and the said document was registered on 24.09.2002 as Document No. 4341 of 2002. After registration, the said document was referred to District Revenue Officer (Stamps), Coimbatore on 11.10.2002 under Section 47(A)(1) of Indian Stamp Act, to determine the value of the land.

4. The counter affidavit further reveals that the District Revenue Officer (Stamps), Coimbatore, in its order dated 16.09.2004 directed the petitioner to remit the deficit stamp duty of Rs.8,85,816/-.

5. Against the order of the District Revenue Officer (Stamps), Coimbatore, dated 16.09.2004, the petitioner has preferred an Appeal on 16.09.2004 under Section 47(A)(5) of the Indian Stamp Act along with a petition to condone the delay in filing the appeal before the Inspector General of Registration.

6. The Inspector General of Registration, Chennai, has passed the impugned order stating that they do not have power to condone the delay in filing the appeal under Section 47(A)(5) of the Indian Stamp Act. Against which, the present Writ Petition is before this Court.

7. In a similar issue, this Court has entertained the Writ Petition in W.P.No. 4556 of 2006 and W.P.M.P.;No. 4925 of 2006 dated 20.02.2006 in G.Premkumar Vs. The Inspector General of Registration, Office of the Inspector General of Registration, No.120, Santhome High Road, Chennai and another reported in 2006 (2) TLNJ 43 (Civil), wherein paragraph Nos. 8 and 9 are extracted hereunder:-

> "8. It is also relevant to note that like Section 14(1) of the Limitation Act, Section 5 of the Limitation Act also refers to the appellate forum as a "Court". Thus whatever stated with regard to the application of Section 14 of the Limitation Act mutatis mutandis will apply to Section 5 as well. Applying the above said ratio to the case on hand, I hold that the first respondent is also fully empowered to invoke Section 5 of the Limitation Act while dealing with an appeal filed under Section 47(A)(5) of the Stamp Act and depending upon the explanation offered by the concerned appellant, the first respondent can pass appropriate orders in such applications either for

condoning the delay or rejecting the same.

9. In the light of my above said conclusion, while setting aside the order impugned in this Writ Petition, the first respondent is directed to entertain the petitioner's application for condoning the delay as one filed under Section 5 of the Limitation Act and dispose of the same on merits. In the said application, the petitioner claims that because he was a minor represented by his mother and natural guardian and that his mother was laid down with jaundice he could not file the appeal in time and that caused a delay of eight days in filing the said appeal. Such reasons offered by the petitioner appears to be bonafide and convincing. Therefore, the first respondent shall pass appropriate order in the said application of the petitioner and decide whether the petitioner's appeal should be entertained or not. However, in the light of the fact that the document was registered in the year 1999, the first respondent is directed to pass appropriate order within six weeks from the date of receipt of a copy of this order."

8. In view of the earlier order passed by this Court in the similar issue as stated supra, this Court is inclined to set aside the impugned order.

9. Accordingly, this Writ Petition is allowed and the impugned order passed by the respondent dated 19.06.2007/20.06.2007 is set aside. The respondent is directed to consider the application filed by the petitioner seeking to condone the delay in filing the appeal and to dispose of the same on merits. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Inspector General of Registration
Chennai - 600 028.

+1cc to Government pleader sr.no.48066

W.P.No. 23285 of 2007
And
M.P.No. 1 of 2007

mr(co)
nr 09/08/2018