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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.4324 of 2019
and
C.M.P.No.24517 of 2019

Tmt.Santhi ... Petitioner

Vs.

1.The Chief Controlling Revenue Authority,
O/o.The Inspector General of Registration,
No.100, Santhome High Road,
Madras - 600 028.

2.The Special Deputy Collector (Stamps),
Door No.311, III Floor,
Collectorate Campus,
Salem District - 636 001.

3.The Sub-Registrar,
Harur, Dharmapuri District. ... Respondents

Civil Miscellaneous Appeal filed under Section 47(10) of the India Stamp Act, 1899 challenging the proceedings of the first respondent in Moo.Mu.No.27023/No.2/2019, dated 22.7.2019 whereby the appeal filed by the appellant against the order of the second respondent dated 06.02.2016 and the consequential order dated 12.02.2016 and 26.04.2016 and the final notice dated 29.03.2019 and 21.06.2019 was dismissed on the ground that there is no provision to condone the delay under Section 47-A(5) of the Stamp Act.

For Petitioner : Mrs.Dakshayani Reddy
for Mr.P.Nethaji

For Respondent : Mr.T.M.Pappiah, Spl.G.P.

ORDER

The appellant herein has filed the Civil Miscellaneous Appeal challenging the proceedings of the first respondent in Moo.Mu.No.27023/No.2/2019, whereby the appeal filed by the appellant against the order of the second respondent dated 06.02.2016 and the consequential order dated 12.02.2016 and 26.04.2016 and the final notice dated 29.03.2019 and

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21.06.2019 was dismissed on the ground that there is no provision to condone the delay under Section 47-A(5) of the Stamp Act.

2.The case of the appellants is that they have purchased the land by way of sale deed dated 27.04.2012, for a sale consideration of Rs.6,00,000/- and the extent of land purchased was Acre 1.20 Cents which is situated at Harur Taluk, Dharmapuri District.

3.The said document was not accepted and further it was referred to the Special Deputy Collector under 47 A(1) notice and notice under Form 1 was issued and inspection report was filed by the respondent which is the impugned order herein and the same was done behind the back of the parties, as they are residing in Sanjay Nagar, Banglore. When the appellant herein has sent a letter dated 12.07.2017 to the Authorities and they want the personal inspection of the authorities after informing them. The said thing was not considered by the Authorities and on 29.03.2019, a final order has been passed by the Authorities asking them to pay an amount of Rs.57,88,918/- on or before the month end i.e., March and the letter has been signed on 29.03.2019 and on 21.06.2019, a notice was issued to the parties and they directed the parties to pay the said amount of Rs.43,52,840/- with interest on or before 02.07.2019 at Harur, Revenue Inspector Office failing which, they will take necessary steps initiating appropriate actions contemplated under Government Rules.

4.Challenging the same, the appellant herein filed an appeal under Section 47-A(5) of the Indian Stamp Act and sought for condonation of delay of 3 years in filing such appeal on 02.07.2019. The appellant herein have produced various medical documents by way of medical certificates issued by various hospitals by name Narayana Institute of Cardiac Sciences, Padmashree Diagnostics, Bhagwan Mahaveer Jain Hospital, to show that both the parties have some heart ailments who are aged about 65 and 59 years ailing from heart diseases and the wife have undergone some Doppler Test and they have taken treatment at Orthopedic Surgeon, who is from Bangalore from 04.03.2017 to 22.04.2019, to show that both the parties are ailing and they were not in a position to approach the Authorities by filing an appeal to defend their stand regarding the fixation of value for the said party by the Authorities. In this regard, the learned counsel appearing on behalf of the appellant also referred to the decision of this Court in the case of M.Kaliammal Vs. The Special Deputy Collector (Stamps) reported in (2005) 3 CTC 529.

5.It is also seen that the non-appearance and filing of appeal within the prescribed period was not willful as they have no other person to help and their children are living in

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abroad and hence they could not approach the Authorities in-time. Only after the notice received by them under the Revenue Recovery Act, they have approached the Authorities and the same was rejected and aggrieved against the same they have filed the present Civil Miscellaneous Appeal.

6.After perusing the material available on record produced before this Court, this Court is of the view that the inspection has been done without giving them an opportunity and only a Village Administrative Officer and the persons who are residents of that village are available. As pointed out by the learned counsel, the same has not been done in their presence.

7.In order to give them an opportunity to defend their case and to decide the matter on merits, this Court is inclined to allow the Civil Miscellaneous Appeal and delay is being condoned and the parties are directed to pay a sum of Rs.25,000/- to Dr.V.Varadappa Naidu's Home for Children, Children Home for Boys and Girls, Lady Stokes Special Primary School, M.S.P.C. Senior Citizen's Home, M.S.P.C. Vocational Training Centre & M.S.P.C. Charitable Book Bank, No.891/288, T.H.Road, Old Washermanpet, Chennai - 600 021, within a period of one week from the date of receipt of copy of this order. On receipt of the said memo being filed, the Authorities concerned are directed to take the appeal on file, as the delay has been condoned by this Court after giving an appropriate opportunity and holding an inspection of the property in the presence of the panchayat and decide the same on merits within a period of six months thereafter.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

mrm

To

1.The Chief Controlling Revenue Authority,
O/o.The Inspector General of Registration,
No.100, Santhome High Road,
Madras - 600 028.

2.The Special Deputy Collector (Stamps),
Door No.311, III Floor,
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3.The Sub-Registrar,
Harur, Dharmapuri District.

+1cc to Mr.P.Nethaji, Advocate SR.95052
+1cc to the Government Pleader SR.96056

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and
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CNR(CO)
CB(11/12/2019)

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