



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) .No.13289 of 2019

and

W.M.P. (MD) No.9892 of 2019

A.Ranjith
... Petitioner

-Vs-

1.The District Registrar,
(Administration), Karur.

2.The Sub-Registrar,
Office of the Sub-Registrar,
Mela-Karur, Karur Town.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 06.09.2018 in Memorandum No.001/September, 2018 of the second respondent and the order dated 22.04.2019 in Na.Ka.No.1395/A1/2019 of the first respondent and quash the same and consequently, direct the second respondent herein to forthwith register the sale deed under P.No.49/2012 dated 18.04.2012 presented for registration before the office of the second respondent.

For Petitioner	: Ms.AL.Gandhimathi
For Respondents	: Mr.M.Murugan, Government Advocate.

ORDER

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 06.09.2018 in Memorandum No.001/September, 2018 of the second respondent and the order dated 22.04.2019 in Na.Ka.No.1395/A1/2019 of the first respondent and quash the same and consequently, direct the second respondent herein to forthwith register the sale deed under P.No.49/2012 dated 18.04.2012 presented for registration before the office of the second respondent.

2.Heard Ms.AL.Gandhimathi, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate, who accepts notice on behalf of the respondents.



3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

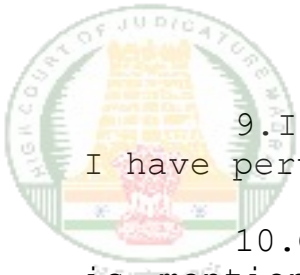
4. The grievance of the petitioner is that, the petitioner had submitted a document for registration to the second respondent, which has been rejected for some reasons on 06.09.2018. As against the said rejection order, an appeal has been preferred before the first respondent.

5. The said appeal preferred before the first respondent has been rejected on the ground that within the stipulated period of 30 days for filing of the appeal to the first respondent, the said appeal has not been preferred and therefore, on the ground of delay, it was rejected.

6. The learned counsel appearing on behalf of the petitioner points out that, by order dated 06.09.2018, the second respondent rejected the registration of the document. However, along with the said order, even though it has been mentioned that the original document i.e., document No.49/2012 has been annexed, the same has been struck off. No original document has been given along with the said order dated 06.09.2018 issued by the second respondent.

7. Thereafter, having waited for several months, since the original document had not been returned by them, the petitioner had made a request on 11.04.2019 to the second respondent. On receipt of the same, the second respondent had issued the original document on 11.04.2019. On receipt of the same, immediately, the appeal was filed on 22.04.2019. Therefore, absolutely, there is no delay in filing the appeal to the first respondent, as the petitioner could not be in a position to file the appeal without original document, which has not been returned along with the order of the second respondent on 06.09.2018. Therefore, the reasons cited in the present impugned order dated 22.04.2019 passed by the first respondent, citing the reason of delay, is not sustainable.

8. Heard Mr.M.Murugan, learned Government Advocate appearing for the respondents, who would submit that, normally, while issuing rejection order, original document will be returned. But, in this case, though it has been attempted, the same seems to have not been given and at any rate, if at all the original document had not been given, the same could have been demanded and obtained by the petitioner and immediately, an appeal could have been preferred. The said attempt has not been made and they themselves have approached belatedly, on 11.04.2019. Therefore, the delay is caused by the petitioner.



9.I have considered the submissions made by both sides and I have perused the records placed before this Court.

10.On perusal of the rejection order dated 06.09.2018, it is mentioned therein that along with the said order, original document No.49/2012 has been annexed. But, however, the said "izg;G:mry; Mtzk; 49/2012" has been struck off and the original document, admittedly, has not been returned to the petitioner along with the rejection order dated 06.09.2018.

11.Even, thereafter, the same had not been voluntarily given by the second respondent to the petitioner and only after making request on 11.04.2019, communication has been issued on that date itself by the second respondent, which reads thus:-

"பார்வையில் காணும் மனுவில் கோரியுள்ளவாறு இவ்வலுவலக நிலுவை ஆவண எண். 49/2012 அசல் ஆவணத்தை அலுவலக வேலை நாட்களில் அலுவலகத்தில் தாத்கல் செய்தவர் நேரில் வந்து பெற்றுக் கொள்ளுமாறு தெரிவிக்கப்படுகிறது."

12.Accordingly, on the said date, the document has been obtained by the petitioner on 11.04.2019 and immediately, the appeal was preferred on 22.04.2019 within 30 days. Therefore, it cannot be construed that the petitioner has delayed in filing the appeal before the first respondent and in that view of the matter, this Court is of the considered opinion that there has been no delay on the part of the petitioner in preferring the appeal before the first respondent.

13.That being the position, the reason cited by the first respondent in the impugned order dated 22.04.2019, citing the reason of delay and rejecting the appeal filed by the petitioner is unsustainable and therefore, this Court is inclined to interfere with the said order.

14.Resultantly, the impugned order passed by the first respondent is quashed. The matter is remitted back to the first respondent to entertain the appeal filed by the petitioner dated 22.04.2019 and decide the same on merits and in accordance with law.

15.With these observations, this Writ Petition stands allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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1.The District Registrar,
(Administration), Karur.

2.The Sub-Registrar,
Office of the Sub-Registrar,
Mela-Karur, Karur Town.

+1cc TO M/S.AL.GANTHIMATHI, Advocate,Sr.No.68652

+1cc TO M/S SPECIAL GOVERNMENT PLEADER, Sr.No69195

W.P. (MD)No.13289 of 2019

13.06.2019

BUC (26/06/2019) 4P/5C