In the High Court of Judicature at Madras

Dated : 05.2.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14509 of 2017 & WMP.No.15741 of 2017

G.Devendran ...Petitioner

Vs

1.The Inspector General of Registration,
Santhome High Road, Chennai-28.

2.The District Registrar (Stamps),
Kancheepuram.

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

4.The Sub-Registrar,
Sub Registrar Office,
Tiruvallur. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records with respect to the impugned proceedings of the first respondent dated 14.7.2016 in Pa.Mu. 29922N1/2016 and quash the same.

For Petitioner : Mr.R.Nalliappan
For Respondents : Mr.P.P.Purushothaman, GA

ORDER

I have heard Mr.R.Nalliappan, learned counsel for the petitioner and Mr.P.P.Purushothaman, learned Government Advocate appearing for the respondents.

2. The petitioner is aggrieved by the order passed by the first respondent dated 14.7.2016 rejecting his appeal filed against the demand of additional stamp duty and registration charges dated 14.12.2015 on the ground that it has been presented beyond the period of limitation of two months i.e after four months and 13 days.

3. The petitioner presented four sale deeds for registration on 12.8.2011 before the fourth respondent, who, in turn, registered and released the documents, which were assigned doc.Nos.9270, 9271, 9417 and 9418 of 2011. After about 4½ months, a notice dated 14.12.2015 has been purported to have been issued by the third respondent demanding additional stamp duty and registration charges by exercising powers under Section 47(A)(3) of the Indian Stamp Act, 1899.

4. The case of the petitioner is that he is not aware of the said order. Therefore, he applied for certified copy of the same and after obtaining the certified copy on 22.2.2016, he presented the appeal before the first respondent on 27.6.2016, which has been rejected by the impugned order as being time barred.

5. The learned Government Advocate appearing for the respondents would rely on a seal affixed in the orders dated 14.12.2015, which say that the orders have been dispatched on 15.12.2015. However, in the impugned order, there is nothing to indicate that the orders, which were dispatched, were received by the petitioner.

6. Rule 9(1) of the Tamil Nadu Stamp (Prevention of Under Valuation of Instruments) Rules, 1968 provides for an appeal to be preferred to the first respondent against the order passed by the Collector (Stamps) within two months from the date of the order determining the market value under Rule 7(1) of the said Rules. The correct interpretation to be given to the expression 'from the date of the order of the Collector' should be from the date of service of the said order on the person, against whom, such order has been passed and the period of limitation has to be computed from the said date. In the absence of any document to show that the orders, which were said to have been dispatched on 15.12.2015, were received by the petitioner immediately, this Court is of the considered view that the appeal petition should be entertained by the first respondent. Apart from that, there is no statutory bar for the first respondent to entertain an appeal beyond the stipulated period and more particularly in the facts and circumstances of the case. In fact, in the interest of the Revenue, the appeal should be heard and decided on merits because, if additional stamp duty is to be collected from the petitioner, then every step should be taken by the Department to do so. Thus, for the above reasons, this Court is inclined to exercise discretion and direct the appeal to be heard on merits.

7. Accordingly, the above writ petition is allowed, the impugned order is set aside and the first respondent is directed to entertain the appeal petition filed by the petitioner on 27.6.2016, number the appeal petition, issue notice to the

petitioner, afford an opportunity of personal hearing and decide the same on merits and in accordance with law. The first respondent shall conclude the proceedings not later than three months from the date of receipt of a copy of this order. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To
1.The Inspector General of Registration,
Santhome High Road, Chennai-28.

2.The District Registrar (Stamps), Kancheepuram.

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

4.The Sub-Registrar,
Sub Registrar Office,
Tiruvallur.

+1cc to Mr.R.Nalliappan , Advocate SR.No. 8951
+1 cc to Government Pleader Sr.No. 100007

WP.No.14509 of 2017&
WMP.No.15741 of 2017

A.SK(28/02/2020)