



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 11.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD)No.863 of 2021

and

W.M.P. (MD)Nos.716 and 718 of 2021

Ramaraj

... Petitioner

- Vs -

1.The District Registrar,
Virudhunagar,
District Registration Office,
Virudhunagar District.

2.The Sub Registrar,
Watrap Sub Registrar Office,
Watrap, Virudhunagar District.

3.C.Palanichamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire record pertaining to the impugned order passed by the first respondent in Na.Ka.No.4997/A1/2020, dated 23.11.2020 and quash the same as illegal and consequently direct the second respondent to register the sale deed presented by the petitioner in No.P/WATRAP/7/2020, dated 06.08.2020.

For Petitioner : Mr.P.M.Vishnuvarthanan

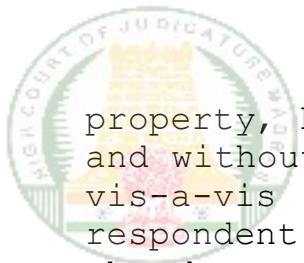
For Respondents 1 & 2 : Mr.M.Murugan
Government Advocate

For Respondent 3 : Mr.K.Gokul

ORDER

The case of the petitioner is that he is the absolute owner of a small house property in Survey No.738/4B3 bearing Door No.1/39, measuring to an extent of 501 sq. ft. According to the petitioner, the entire revenue records stand in his name including patta and chitta. The petitioner, due to his old age, has decided to dispose of the property to tide over certain financial crisis faced by him.

2.The petitioner, therefore, executed a sale deed on 06.08.2020 for a valuable consideration and presented the document for registration before the second respondent on the very same day and the document was also accepted by the second respondent office and assigned Registration No.P/WATRAP/7/2020, dated 06.08.2020. While the matter stood thus, according to the petitioner, the third respondent, who has no connection whatsoever with the



property, has raised objection to the registration of the document and without due appreciation of the claim of the petitioner herein vis-a-vis the objection of the third respondent, the second respondent by his proceedings dated 23.10.2020 refused to register the document. According to the petitioner, the second respondent mechanically and dutifully accepted the objections of the third respondent overlooking the legitimate claim of the petitioner and refused to register the document. While rejecting the registration of document vide his order dated 23.11.2020 the second respondent granted 30 days time to file an appeal before the first respondent.

3.The petitioner rightly aggrieved by the unjust refusal of the second respondent in registering the sale deed, dated 06.08.2020, presented his appeal before the first respondent by Registered Post dated 20.11.2020, as during the lock-down period, the movement of people were restricted and 30 days period of limitation prescribed could not be adhered to for reasons beyond the control of the petitioner. However, the first respondent by the impugned order dated 23.11.2020 rejected the appeal stating that the office cannot receive the appeal vide registered post in terms of Registration Rules. Thereafter, the petitioner personally appeared and presented his application as received by him but the same was rejected by the first respondent stating that the appeal preferred was beyond the limitation period. In the said circumstances, the petitioner is before this Court.

4.Mr.P.M.Vishnuvarthanan, learned Counsel appearing for the petitioner would submit that the rejection order passed by the first respondent dated 23.11.2020 may not be valid in the circumstances of the case for the simple reason that during the unprecedented pandemic crisis, all the transactions whether legally or otherwise, had been done through postal mails, electronic mails, etc., since the Government insisted on quarantine of people in isolation in order to arrest the spread of the deadly virus Corona. In the circumstances, the petitioner had chosen to send the appeal by registered post and also attempted to present it in person. Unfortunately, the first respondent, even in the time of grave crisis, had relied upon the rule position and refused to entertain the appeal and rejected the same only on the ground that it was presented beyond the period of limitation. Therefore, the learned Counsel appearing for the petitioner would implore this Court to interfere with this matter and direct the first respondent to deal with the appeal on merits.

5.Per contra, Mr.M.Murugan, learned Government Advocate appearing for the respondents 1 and 2 would submit that the first respondent is bound by the relevant rules and he cannot, under any circumstances, deviate from the same. When the rules prescribed certain period of limitation for entertaining the appeal, whatever



entertaining the appeal beyond the period of limitation. Therefore, the rejection of the appeal summarily, as being time barred, cannot be faulted with. Therefore, he would submit that the impugned order does not require any intervention from this Court.

6.This Court considered the rival submissions of the learned Counsels.

7.Although the objections of the first respondent for not dealing with the appeal on merits cannot per se be faulted with, as contended by the learned Government Advocate, yet in unprecedented crisis situation (COVID-19), every rule requires a different appreciation and application. No doubt, it is not within the authority to make any departure from the mandatory rule position. At the same time, this Court in exercise of its equity jurisdiction as well, cannot uphold the action of the first respondent helplessly.

8.In the said circumstances, taking into consideration the extraordinary situation which calls for extraordinary answer, the presentation of the appeal by the petitioner beyond the date of limitation needs to be condoned. A summary disposal of the appeal even in the present crises period would undermine the legitimate interest of the petitioner of having his appeal heard on merits. In such situation, the fair-play justice demand that the first respondent is directed to dispose of the appeal presented by the petitioner on merits and in accordance with law without being dictated by the period of limitation because of the unprecedented grave crisis period which the entire humanity is subjected to.

9.In view of the above, the impugned order dated 23.11.2020 passed by the first respondent in Na.Ka.No.4997/A1/2020 is set aside and the matter is remanded back to the first respondent and he is directed to dispose of the appeal on merits and in accordance with law and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this Writ Petition.

10.The Writ Petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



To

1.The District Registrar,
Virudhunagar,
District Registration Office,
Virudhunagar District.

2.The Sub Registrar,
Watrap Sub Registrar Office,
Watrap,
Virudhunagar District.

+1 CC to Mr.P.M.VISHNUVARTHANN, Advocate (SR-4868[F] dated 12/02/2021)

+1 CC to SGP (SR-4950[F] dated 15/02/2021)

W.P (MD) No.863 of 2021
11.02.2021

KM (26.02.2021) 4P 5C