



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE **V. PARTHIBAN**

W.P. (MD)No.17942 of 2020

R.Natarajkumar

... Petitioner

versus

1. The Appellate Authority and Regional
Deputy Inspector General of Registration,
Madurai Region,
Registration Office Complex,
Y.Othakadai,
Madurai.

2. The District Registrar (Administration)
Ramanathapuram District,
Ramanathapuram.

3. The Sub-Registrar,
Ramanathapuram.

4. S.Ganesan

5. Boopathiraj

6. Kalyani

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for records pertaining to impugned proceedings of the 1st respondent in No.4616/A4/2020 dated 19.10.2020 and quash the same and consequently, direct the 1st respondent to admit appeal and conduct enquiry pertaining to fraudulent registration of sale deed in Document No.1206/2013 on the file of the 3rd respondent created by the respondents 4 to 6.

For Petitioner

: Mr.R.Narayanan

For Respondents

: Mr.K.Sathiyasingh

Additional Government Pleader
for R1 to R3

Mr.S.Vellaichamy for R5 and R6

No appearance for R4

ORDER

The case of the petitioner is that his father was owning a property in T.S.Nos.16, 17 and 18 admeasuring at 2400 sq. ft.

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situated at Thangavelsamy North Street, old ward No.6, Ramanathapuram Town and District.

2. The property was purchased by his father out of his own earnings and registered a sale deed as Document No.1659/1971 on 28.06.2019 at Sub Registrar Office, Ramanathapuram. The petitioner's father died on 15.01.2002, leaving behind the petitioner, his mother and his brother as his legal heirs.

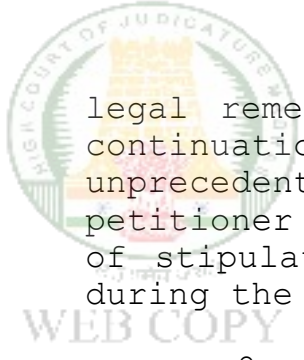
3. According to the petitioner, as he is the resident of Madurai, he could not take care of the property and his paternal uncle, namely, 4th respondent was taking care of the property all along. The 4th respondent, by misusing the trust reposed in time by the petitioner, had created bogus and false documents and created a fraudulent sale deed in respect of a part of the property measuring about 800 sq. ft. The 4th respondent conveyed a portion of the property in favour of the 5th and 6th respondents without the knowledge of the petitioner.

4. After the fraudulent sale was effected, the private respondents were instrumental in creating false revenue records as if the Town Survey Register was standing in the name of the 4th respondent. When the petitioner came to know about the illegal and fraudulent action of the 4th and other respondents, a criminal case was registered in Cr.No.43/2015 on the file of the District Crime Branch, Ramanathapuram and a charge sheet was also filed in C.C.No.427 of 2019.

5. According to the petitioner, the Inspector General of Registration issued guidelines in Circular No.41530/U1/2017 dated 08.11.2017 and 31.07.2018, under Section 68 of the Registration Act, with regard to conduct an enquiry in respect to the complaint of the fraudulent registration of documents. In cases, after enquiry, the document was found to be fraudulently registered, then the authority concerned would have to make entry the document as "fraudulent registration"

6. In terms of the above guidelines, the petitioner submitted a representation to the second respondent. However, the second respondent, without considering the representation in proper perspective, rejected the representation, by its proceedings, dated 03.02.2020. The petitioner, however, was provided an opportunity of filing an appeal against the order, within 60 days from the date of receipt of a copy of the proceedings, in case the petitioner is aggrieved with the proceedings. The appeal was stated to lie before the first respondent herein.

7. In the meanwhile, in March 2020, a national lock down was announced and imposed and consequently, all the activities came to a stand still due to Covid-19 situation. According to the petitioner, the limitation prescribed in various contingencies for availing



legal remedies, has been extended from time to time, in view of continuation of lock-down for months together, owing to the unprecedented pandemic crisis. In the trying circumstances, the petitioner could not avail the appeal remedy within 60 days period of stipulation. However, he filed his appeal on 10.10.2020, even during the period of pandemic crisis.

8. In response to the appeal filed by the petitioner, a cryptic one line order was passed by the first respondent on 19.10.2020, rejecting the appeal stating that the appeal was preferred after the expiry of 60 days. Challenging the same, the petitioner is before this Court.

9. After notice, Mr.R.Narayanan, learned counsel, entered appearance for the petitioner.

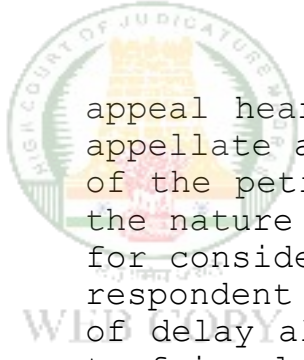
10. The learned counsel appearing for the petitioner reiterated the factual position as contained in the petition and submitted that in the extraordinary pandemic crisis, it is quite unfortunate that the first respondent has rejected the appeal on the ground of delay. When the Courts are extending limitation period liberally in extraordinary and unprecedented times, the valuable right of the petitioner in having the appeal heard on merits had been simply snuffed out by summarily rejecting the appeal on the said ground.

11. The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that as far as the appellate authority is concerned, he has followed the procedure and rules and therefore, the same cannot be found fault with.

12. This Court considered the submissions of the learned counsel for the rival parties.

13. As rightly pointed out by the learned counsel for the petitioner, the first respondent, namely, the appellate authority, ought not to have rejected the appeal by a cryptic order, rejecting the appeal only on the ground of delay without appreciating the unprecedented times, which entire humanity has been going through. In fact, as rightly pointed out by the learned counsel for the petitioner, the Courts have been extremely liberal in understanding the difficulties faced by the litigants in availing appropriate remedies promptly and entertaining the litigations by extending the period of limitation wherever possible. While such is the case, this Court is unable to appreciate as to why the first respondent has adopted a pedantic approach even during the pandemic crisis, while disposing of the appeal summarily on the ground of delay.

14. The action of the first respondent in summarily rejecting the appeal without delving the matter on merits would amount to denial of valuable right to the petitioner having the



appeal heard on merits. In the considered view of this Court, the appellate authority is the most competent person to decide the claim of the petitioner both in terms of appreciation of facts as well as the nature of claim of the petitioner, if the materials are produced for consideration. However a cavalier approach adopted by the first respondent in rejecting the claim of the petitioner for the reason of delay alone without appreciating the prolonged crisis is opposed to fair play and good conscience.

15. For the above said reasons, the impugned order of the first respondent dated 19.10.2020 is hereby set aside. The matter is remanded back to the first respondent for considering the appeal of the petitioner on merits and in accordance with law. The first respondent is directed to pass appropriate orders by providing an opportunity of personal hearing to the petitioner, if necessary and pass orders, within a period of four weeks from the date of receipt of a copy of this order.

16. Accordingly, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

To

1. The Appellate Authority and Regional
Deputy Inspector General of Registration,
Madurai Region,
Registration Office Complex,
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Madurai.

2. The District Registrar (Administration)
Ramanathapuram District,
Ramanathapuram.

3. The Sub-Registrar,
Ramanathapuram.

+1 CC to SPL GP (SR-2335[F] dated 29/01/2021)

+1 CC to Mr.M.V.VENKATASESHAN, Advocate (SR-2221[F] dated 27/01/2021)

+1 CC to Mr.R.NARAYANAN, Advocate (SR-2460[F] dated 29/01/2021)

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