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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-02-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.16042 of 2012

Mr.K.Rajasekaran

.. Petitioner

vs.

The Government of Tamil Nadu
Represented by the Secretary,
Law (Administration) Department,
Secretariat,
St. George Fort,
Chennai - 600 009.

.. Respondent

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed in G.O.(Ms.) No.190, dated 23.02.2012 and to quash the same and further to direct the respondent to renew the Certificate of Practice of the petitioner as Notary Advocate and enroll the name of the petitioner in Notary in the City of Chennai in the Register of Notaries maintained by the respondent under Section 4 of the Notaries Act, 1952.

For Petitioner : Mr.M.Jaikumar

For Respondent : Ms.N.Senthil Selvi,
Government Advocate.

O R D E R

The order passed by the respondent in G.O.(Ms.) No.190, dated 23.02.2012 is sought to be quashed in the present writ petition.

2. The petitioner is a practicing Advocate and he was appointed as Notary in the City of Chennai on 13.07.1993.

3. The petitioner states that he was renewing the Certificate of Practice as Notary Advocate from the year of appointment periodically and lastly he renewed for a period of



five years from 13.07.2002 and the expiry of Certificate of Practice was on 12.07.2007.

4. The petitioner further states that he was admitted at Hospital on 27.05.2007 at Life Care Centre in U.S.A. and was discharged on 25.10.2007 after the period of five months. Thus, he could not apply for renewing the Certificate of Practice as Notary Advocate. Hence, after the expiry date of 12.07.2007, the petitioner came back to India only on 23.05.2008 and he was taking regular check up and follow up treatment in Chennai. Thus, he had submitted an application to renew his Certificate of Practice as Notary Advocate only on 14.08.2009 to the respondent through the learned Principal Judge, City Civil Court at Chennai.

5. The question arises whether long delay of 777 days in filing a renewal application shall be condoned or not. Even as per the statement made by the petitioner, he was discharged from the Hospital at U.S.A on 25.10.2007 itself and returned back to India only on 23.05.2008. But the petitioner filed the application after a lapse of about one year i.e., on 14.08.2009. The said delay of more than one year itself is not explained properly. Even if the petitioner had undergone treatment in the United States of America in the year 2007, he should have submitted the application soon after the discharge or at least on arrival to India. However, the petitioner has waited for about two years and submitted his application only on 14.08.2009. Thus, the Authorities Competent invoked the provisions of the Notaries Act 1952 and rejected the application on the ground of inordinate delay of 777 days, which is not convincing and acceptable.

6. This Court is of the considered opinion that law of limitation is the rule, which is to be scrupulously followed. The power of discretion conferred on the Courts to condone the delay is to be exercised judiciously. It is not as if the Courts can casually condone the delay in a routine manner and thereby diluting the law of limitation, which would defeat the very purpose and object of the Law of Limitation. Thus, the Rule is followed by the Law of Limitation. Condonation of delay is an exception. Exceptions are to be exercised discreetly if the reasons furnished are genuine and acceptable.

7. The Courts are vested with the power of discretion to condone the delay. The delay does not mean that enormous delay are to be condoned without any valid reason. Undoubtedly, if the reasons are candid, then the Courts are empowered to exercise



the power of discretion. The concept of discretionary power is to be exercised cautiously and carefully. While exercising the power of discretion, if excessively made, would certainly defeat the Law of Limitation. So the Courts are not expected to travel beyond that extent and the power of discretion is expected to be exercised discreetly, so as to mitigate the circumstances and certainly not to dilute the Law of Limitation. The Courts are also liberal in condoning the delay if it is for a short span of period. However, the long delay in filing the application cannot be condoned in a routine manner. In the absence of any valid reason, it must be candid and convincing.

8. In the present case, the reasons stated by the petitioner that he was admitted in the Hospital on 27.05.2007 and discharged on 25.10.2007. However, he filed the renewal application only on 14.08.2009, i.e., even after returning back to India on 23.05.2008.

9. This being the factum, the Authorities have rejected the application of the petitioner on the ground of inordinate delay. This Court do not find any infirmity or perversity in respect of the findings made and the decision arrived.

10. Accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

Svn

To

The Secretary,
Government of Tamil Nadu,
Law (Administration) Department,
Secretariat, St. George Fort,
Chennai - 600 009.

+1cc to Mr.M.Jaikumar, Advocate SR.No.7486
+1cc to the Government Pleader SR.No.7714

WP 16042 of 2012

GSM(CO)
GN(15/02/2022)