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W.P. No.12369 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.12369 of 2022
and W.M.P.No.11819 of 2022

1.Mahaboob Shahib

2.S.Jayalakshmi

3.Kamala

4.Vinoth

... Petitioners

Vs.

1.The Deputy Inspector General of Registration,
Santhome Road, Chennai.

2.The District Registrar,
South Chennai, Chennai.

3.S.Mani

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus or any other order or direction or Writ, in the nature of a certiorari calling for the records of the 1st respondent in R.C.No.1063/A1/2022 dated 18.03.2022 quash the same and direct the first respondent to dispose of the appeal filed by the petitioners on 28.02.2022 on merits within the time stipulated by this Court.

For Petitioners

: Mr.R.Rajaramani



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For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

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ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in R.C.No.1063/A1/2022 dated 18.03.2022 and quash the same, subsequently, direct the first respondent to dispose of the appeal filed by the petitioners on 28.02.2022, on merits within the time stipulated by this Court.

2.The learned Government Advocate takes notice for the respondents.

In view of the consent expressed by the learned counsel appearing for either side, this petition is taken up for final disposal.

3.Since no adverse order is being passed against the private respondent, notice to the private respondent is dispensed with.

4.The case of the petitioners is that, the petitioners purchased the property comprised in S.No.31/1, measuring 27 cents situated at No.8, Iyencherry Village, Chengalpattu Taluk, Kancheepuram District, from one Radhammal. The eastern part of the said property is sub divided as S.No.31/1A. Originally, the said property belongs to one Chokkammal, who is the mother of the said Radhammal. The said Chokkammal registered a settlement deed in favour of her daughter viz., Radhammal vide Document



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No.8167 of 1985 dated 28.10.1985. Thereafter, said Radhammal executed sale deeds vide document Nos.1530, 1531 & 1532 of 1986 in favour of 1st petitioner's wife, 2nd petitioner and 3rd petitioner to an extent of 13 ½ cents, 6 ¾ cents and 6 ¾ cents respectively. The third petitioner, in turn, sold 3 cents of land to one Ekambaram vide document No.97 of 1993 dated 22.01.1993. Subsequently, the said Ekambaram sold the said property in favour of fourth petitioner vide sale deed Document No.3505 of 2002 dated 26.08.2002. Thereafter, the petitioners became the absolute owners of the said property and patta had been issued in favour of the petitioners 1 and 2 under patta Nos.2966 and 2792 respectively. While so, the third respondent fraudulently created sale deeds vide document Nos.3061 & 3328 of 2014 dated 03.03.2014 and 07.03.2014 in respect of property in S.No.31/1A. Therefore, the petitioners filed suit in O.S.No.172 of 2017 before the District Munsif Court, Chengalpattu against the third respondent praying for injunction. Thereafter, the petitioners filed petition under Section 68 (2) of the Registration Act before the second respondent to declare the sale deeds in favour of 3rd respondent dated 03.03.2014 and 07.03.2014 as fraudulent. The second respondent, without hearing the petitioners, passed order vide Na.Ka.No.8319/E2/2020 dated 08.10.2021. Aggrieved against the same, the petitioners preferred appeal in R.C.No.1063/A1/2022 before the first



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respondent and the same was dismissed on 18.03.2022. Challenging the same, the present Writ Petition is filed.

5.The learned counsel for the petitioners submit that the second respondent rejected the petition filed by the petitioners under Section 68 (2) of the Registration Act to declare the sale deeds in favour of the third respondent dated 03.03.2014 and 07.03.2014 as fraudulent, against which the petitioner filed appeal before the first respondent and the same was dismissed on the ground that the appeal was filed after a delay of four months. It is the contention of the learned counsel for the petitioner that the first respondent failed to consider the order of Hon'ble Supreme Court about extension of limitation period to exclude the period from 15.03.2020 till 28.02.2022 on account of the Covid situation. Hence, he prays for quashing the order dated 18.03.2022 passed by the first respondent.

6.The learned Special Government Pleader appearing for the 1st and 2nd respondents produced the circular letter No.41530/U1/2017 dated 31.07.2018, which makes it clear that the aggrieved parties shall file appeal before the concerned Appellate Authority within a period of sixty days from the date of receipt of copy the order. Accordingly, the first respondent



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dismissed the appeal filed by the petitioners as it was beyond the period of sixty days. Hence, he prays for dismissal of this Writ Petition.

7. Heard the learned counsel appearing on either side and perused the materials available on record.

8. From the narration of the case aforesaid, it is evident that the petition under Section 68 (2) of the Registration Act, filed by the petitioners was rejected by the 2nd respondent, as against which, the petitioners preferred appeal before the first respondent and the same was dismissed on the ground that the appeal was filed after a delay of four months. However, it is pertinent to note that, the Hon'ble Supreme Court ordered the period from 15.03.2020 till 28.02.2022 to be excluded while computing the period of limitation on account of the outbreak of Covid. However, the first respondent has failed to consider the same while computing the period of limitation and has erroneously dismissed the appeal, which is unsustainable. Hence, this Court by exercising its extraordinary power under Article 226 of the Constitution is inclined to set aside the order passed by the first respondent in R.C.No.1063/A1/2022 dated 18.03.2022 and remand the matter to the first respondent for fresh disposal. Further, the first respondent is directed to hear



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the petitioners and pass appropriate order on merits and in accordance with law within a period of twelve weeks from the date of receipt of copy of this order, after affording an opportunity of personal hearing to the petitioners as well as the private respondent.

9. Accordingly, this Writ Petition is allowed with the aforesaid observations and directions. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No

Speaking order : Yes / No



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To

- 1.The Deputy Inspector General of Registration,
Santhome Road, Chennai.
- 2.The District Registrar,
South Chennai, Chennai.



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M.DHANDAPANI, J.

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