IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.25697 of 2022

A.Prakash ... Petitioner

Vs.

1.The Deputy Inspector General of Registration,
Chennai Region,
Santhome High Road,
Chennai – 600 004.

2.The District Registrar (Admin),
South Chennai, SIDCO Industrial Estate
Electronic Complex, 3d Block, 3rd Floor,
Guindy, Chennai 600 032.
Present Address:
Combined Building for Commercial Tax
and Registration Department,
Fanepet, Nandanam, Chennai – 600 035. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records in Na.Ka.No.2808/Aa1/2022 dated 30.06.2022 on the file of 1st respondent and quash the same and consequently direct the 1st respondent to hear the appeal filed by the petitioner dated 27.05.2022 in accordance with law.

For Petitioner	:	Mr.Eswar
For Respondents	:	Mr.C.Kathiravan Special Government Pleader

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for records in Na.Ka.No.2808/Aa1/2022 dated 30.06.2022 on the file of 1st respondent and quash the same and consequently direct the 1st respondent to hear the appeal filed by the petitioner dated 27.05.2022 in accordance with law.

2. The case of the petitioner is that the petitioner and his family members are the joint owners of property bearing Survey No.362/1B, measuring an extent of 26 cents, situated at Medavakkam Village, Sholinganallur Taluk, vide Patta No.71. A power of attorney was executed by the petitioner in favour of one Mr.G.Shanmugam, registered as Doc.No.9415 of 2018. However, without the knowledge of the petitioner, the said Shanmugam executed a fraudulent Sale Deed in favour of his son, by using fake life certificates of the petitioner and his family members. Therefore, the petitioner made a representation dated 09.03.2020 before the second respondent to cause an enquiry into the fraudulent registration of the Sale Deed, vide Doc.No.9415 of 2018. On receipt of such representation, the second respondent did not take any action on the said representation. Therefore, the petitioner was constrained to file a Writ Petition before this

Court in W.P.No.16519 of 2021, and this Court, by an order dated 09.08.2021 disposed of the said Writ Petition. However, the second respondent has not obeyed the order of this Court, and therefore, the contempt petition was filed by the petitioner and the same was closed with liberty to the petitioner to file an appeal before the first respondent. Hence, the petitioner filed an appeal before the first respondent on 27.05.2022. The first respondent by an order dated 30.06.2022 rejected the said appeal on the ground that the petitioner filed the appeal belatedly after two months. Challenging the same, the petitioner filed the present Writ Petition.

3. The learned counsel for the petitioner submitted that there is no bar under the statute prescribing the time limitation for preferring an appeal by way of an administrative order. However, in the present case, the time limit for preferring an appeal is 60 days. Further, he contented that due to unavoidable situation, the petitioner preferred an appeal after the stipulated period of 60 days, for which, the petitioner's application was rejected is not sustainable. Accordingly, he prayed for allowing this Writ Petition.

4. The learned Special Government Pleader appearing for the respondents would submit that though the petitioner's appeal was rejected on

the ground of delay, this Court may issue direction to the respondents to decide the appeal on merits and in accordance with law.

5. Heard the arguments advanced on either side and perused the materials available on record.

6. Considering the aforesaid facts and circumstances of the case, the issue arises in the present case is no longer *res-integra* as similar issue was already considered by this Court in ***2005 3(CTC) (529) (M. Kaliammal vs The Special Deputy Collector),*** wherein this Court has held as follows:

> "4. A Division Bench of this Court in the judgment *Indira Devi v. Inspector General of Registration*, dealing with a similar situation had held that since the provisions of the Limitation Act is not excluded in matters relating to filing of an appeal, Section 5 of the Limitation Act gets attracted. Having that law laid down by this Court, we perused the entire papers placed before us. Having regard to the nature of the order passed by the first respondent, which is challenged before the second respondent, viz., demanding difference in payment of stamp duty payable on the ground of under valuation we are of the firm opinion that ends of justice definitely requires the delay in filing the appeal, whether it is 50 days or six months, to be condone. We find from the materials placed on record that the appellant had satisfactorily explained the delay. Consequently, the impugned order is set aside and the appeal is allowed. No costs. The second respondent is directed to take up the appeal on file and dispose it of in accordance with law. CMP No. 7257 of 2005 is closed."

7. In the present case, the petitioner's appeal was rejected only on the ground of delay, however, there is no provision in any statute regarding time limit prescribed. Therefore, applying the ratio laid down by this Court in Kaliammal's case (supra), this Writ Petition is allowed. The impugned order is set-aside and the matter is remanded to the first respondent to decide the appeal preferred by the petitioner on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order, after affording an opportunity to the necessary parties. No costs.

26.09.2022

Index : Yes / No
Speaking order: Yes/ No
jd

To

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Combined Building for Commercial Tax and Registration Department,
Fanepet, Nandanam, Chennai – 600 035.

M.DHANDAPANI, J.

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