



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.2443 of 2022

and

W.M.P. (MD) No.2123 of 2022

D.John Alfred

... Petitioner

Vs.

1. The Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.

2. The Special Deputy Collector,
Stamps, Thirunelveli.

3. The Sub Registrar No.1,
Nagercoil,
Kanyakumari District.

... Respondents

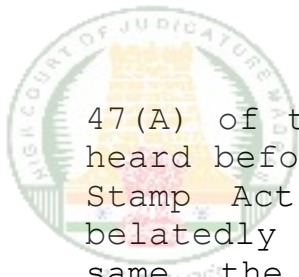
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the first respondent in Mu.Mu.No.39782/N4/2020 dated 14.09.2021 and proceedings in Mu.Mu.No.39803/N4/2020 dated 26.11.2021 and quash the same and consequently direct the first respondent to entertain the appeal preferred by the petitioner as against proceedings of the second respondent in Mu.Sa.X.4/1224/2016 dated /7/2017, signed on 05.07.2017 and dispose of the same in accordance with law on merits.

For Petitioner : Mr.VR.Shanmuganathan
For Respondents : Mr.J.K.Jayaseelan,
Government Advocate.

ORDER

Heard the learned counsel on either side.

2.The petitioner is the purchaser of the property. The document was withheld on the ground of under valuation. The petitioner would claim that the shortfall was made good and the document was also released. Later, audit objection was raised and the petitioner was informed that reference was made under Section



47(A) of the Stamp Act. According to the petitioner, he was not heard before the final order was passed under Section 47(A) of the Stamp Act. The petitioner would further state that he was belatedly served with a copy of the said order. Challenging the same, the petitioner moved the Inspector General of Registration by filing an appeal. The appeal was rejected on the ground that it was belatedly presented and that there was no provision for condoning the delay. This order of rejection is put to challenge in this writ petition.

3.The learned counsel for the petitioner reiterated the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and direct the first respondent to dispose of his appeal on merits and in accordance with law.

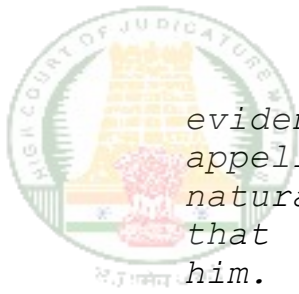
4.Per contra, the learned Government Advocate for the respondents submitted that the impugned order does not call for any interference.

5.I carefully considered the rival contentions and went through the materials on record. The order which was questioned by the petitioner before the first respondent was passed on 05.07.2017 but there is no material to show that it was served on the petitioner herein. The stand of the petitioner is that he received the copy of the said order only on 14.12.2020. The petitioner had presented the appeal memorandum on 21.12.2020. The first respondent ought to have calculated the limitation from the date of receipt of a copy of the order appealed. In this case, he calculated limitation from the date of the order. This approach is clearly incorrect. The petitioner's counsel draws my attention to the decision reported in **(2009) 1 MLJ 607 (A.Nakkeeran Vs. The Inspector General of Registration, Chennai - 600 028 and Others)**. In the said decision, it has been held as follows:-

"7. Learned counsel appearing for the appellant, in support of his contention, relied on the following decisions:

- 1. Kaliammal, M. vs. The Special Deputy Collector (Stamps), 2005 (3) CTC 529*
- 2. Indira Devi vs. Inspector General of Registration, 2005 (1) CTC 733*

8. As per the decisions cited above, it has been held that before passing orders under Section 47(A), sending notice to the aggrieved party is mandatory. Similarly, the period of limitation commences only after service of



evidence to show that there was any notice caused to the appellant, which is also violative of principles of natural justice. Similarly, there is no evidence to show that the order against the appellant was communicated to him. Therefore, to meet the ends of justice, I find it reasonable to allow this Civil Miscellaneous Appeal and set aside the impugned order passed by the first respondent."

6.In this view of the matter, the order impugned in the writ petition is set aside and the writ petition is allowed. The first respondent is directed to dispose of the appeal filed by the petitioner on merits and in accordance with law within the period of twelve weeks from the date of receipt of a copy of this order. The first respondent shall hear the petitioner before passing the final order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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To:

1. The Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.
2. The Special Deputy Collector,
Stamps, Thirunelveli.
3. The Sub Registrar No.1,
Nagercoil, Kanyakumari District.

+1 CC to M/s.SPL.GP (SR-27471[F] dated 22/06/2022)

+1 CC to M/s.AL. KANNAN, Advocate (SR-27831[F] dated 23/06/2022)

W.P(MD)No.2443 of 2022
21.06.2022

USK/05.07.2022/3P/6C

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