**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 27.09.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.6570 of 2015**
**and**
**M.P(MD) No.1 of 2015**

N.Rajendran ... Petitioner

-vs-

1. The Registrar General (Registration)
   Santhome High Road,
   Chennai.

2. The Special Deputy Collector (Stamps)
   Madurai District Collectorate,
   Madurai.

3. The Joint Sub-Registrar No.IV,
   Office of Sub Registrar,
   Madurai – 3. .... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the first respondent in his proceedings Mo.Mo.No. 56043/N4/2014, dated 25.02.2015 and quash the same and further direct the first respondent to dispose of the petitioner's appeal, dated 09.12.2014 filed against the order of the second respondent in his proceedings in S.R.No.192 Mad IV, dated 02.11.2004 on merits.

For Petitioner : Mr.PT.S.Narendravasan

For Respondents : M/s. S.Jeyapriya
Government Advocate

**O R D E R**

The present Writ Petition has been filed challenging the order passed by the first respondent herein, under which, the Revision filed by the writ petitioner under Section 47-A(5) of Indian Stamp Act, 1899, was dismissed, on the ground that, the appeal has been filed beyond a period of two months.

2. According to the learned counsel for the petitioner, the petitioner and four of his brothers jointly purchased a property under a Document, dated 12.04.2001. The said document though registered was not released in view of the certain dispute relating to deficit stamp duty. The same was referred by the third respondent herein to the second respondent under Section 47-A of Indian Stamp Act, 1899. The second respondent herein had issued notice to one of the brothers, namely, N.Rajamani and because of his

non-appearance, the second respondent has proceeded and passed a final order, on 02.11.2004. Thereafter, on 06.10.2010, notice has been issued for payment of the deficit stamp duty. The said N.Rajamani, has passed away on 27.11.2012. Thereafter, the third respondent has issued notice, on 11.02.2014. In the said notice, N.Rajamani was requested to appear for a special camp, which is being held for payment of deficit stamp duty.

3. According to the learned counsel for the petitioner, the petitioner, namely, N.Rajendran, though he is one of the beneficiaries under the said sale deed, he did not receive any independent notice from the second respondent herein and hence, he was not aware of the proceedings under Section 47-A of the Act pending before the second respondent herein. Only when the wife of late Rajamani received a notice on 11.02.2014, the petitioner came to know about the order passed by the second respondent herein. Thereafter, the petitioner has approached the second respondent for furnishing a copy of the order passed by the second respondent under the Right Information Act. Pursuant to the said request, the order passed by the second respondent was furnished to the writ petitioner, on 21.02.2014.

Thereafter, the writ petitioner has filed the Revision before the first respondent herein, on 09.12.2014. Hence, admittedly, there is a delay of more than 9 years in filing the said Revision. Citing the said reason, Revision Petition has been rejected by the first respondent herein. The said order is under challenge in the present Writ Petition.

4. The learned counsel for the writ petitioner has contended that though there are five beneficiaries to the sale deed, each one of them has not been issued with a separate notice so as to put forth before the second respondent. Even the final order passed by the respondent was not communicated to the writ petitioner individually. Hence, the writ petitioner got a copy of the order passed by the second respondent herein only on 21.02.2014 and thereafter, the Revision was presented before the first respondent. That apart, the elder brother N.Rajamani, in whose name the communications were sent by the second respondent herein had passed away and hence, the proceedings could not be challenged before the first respondent herein in time. Hence, he prayed for allowing the present Writ Petition.

5. Per contra, the learned Government Advocate appearing for the respondents herein had contended that notices were jointly issued in favour of the petitioner and other brothers and the brothers have not chosen to appear before the second respondent herein for any enquiry. Hence, the final order came to be passed. Thereafter, the petitioner herein had obtained the impugned order, under the Right to Information Act, on 21.02.2014 and appeal has been presented, on 09.12.2014. Hence, he further contended that there is no power to the first respondent herein to condone the delay beyond a period of two months. Hence, he prayed to sustain the order passed by the first respondent.

6. I have carefully considered the submissions made on either side.

7. The Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968, provides for the procedure to be followed on receipt of reference under Section 47-A of the Act. As per Rule 4(b) notice has to be issued to every person in whose favour the instrument has been

executed. Hence, it is clear that formal notice has to be issued both to the vendors and all the purchasers individually. However, in the present case, notice has been issued only in the name of N.Rajamani, the elder brother among the purchasers. That apart, as per Rule 7, whenever a final order has been passed by the second respondent herein, all the parties should be communicated about the order for the purpose of collecting the difference in the amount of stamp duty, if any. In the present case, the contention of the respondent is that the impugned order passed by the second respondent herein was never communicated to the writ petitioner individually.

8. A combined reading of Rule 4 and Rule 7 of Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules 1968, clearly indicates that, if there are more than one purchaser under the sale deed each one of the purchasers should be issued with an independent notice and each one of the purchasers should be served with an order copy under Section 47-A proceedings.

9. Admittedly, in the present case, this procedure has not been followed. The entire proceedings under Section 47-A of the Act have been addressed to one N.Rajamani, who is the one of the purchasers under the disputed sale deed. Even there is no document to prove that the said order of the second respondent was ever communicated to the writ petitioner. Admittedly, the writ petitioner was able to get a copy of the order passed by the second respondent herein, only on 21.12.2014. Thereafter, he has presented an appeal to the first respondent herein on 09.12.2014. Hence, the petitioner cannot be found fault with for presenting the appeal with delay.

10. In view of the above said reason, the order impugned in the writ petition is set aside. The first respondent herein is directed to number the Revision Petition and proceed with the Revision on merits and pass orders in accordance with law and to dispose of the appeal as early as possible.

11. With the above said observation, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

**27.09.2022**

Index : Yes / No
Internet : Yes / No

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To

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**R.VIJAYAKUMAR,J.**

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