



W.P.No.8224 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.04.2023

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THE HONOURABLE Mr. JUSTICE M.S.RAMESH

W.P.No.8224 of 2023

C.Loganathan

.. Petitioner

Vs.

1.The Deputy Inspector General of Registration
Chennai Zone
No.100, Santhome High Road
Chennai-5

2.The District Registrar (Administration)
District Registrar Office
Kancheepuram District

3.Rupinath

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a writ of Certiorarified Mandamus, to call for the records in respect of the impugned order passed by the 1st respondent in Na.Ka.No.7843/AA1/2022 dated 27.02.2023 and quash the same and consequently, direct the 1st respondent to conduct the fair enquiry on the



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appeal dated 22.12.2022 given by the petitioner after providing proper opportunities to all the necessary parties and to consonance with natural justice.

For Petitioner : Mr.P.Vijendran
For R1 & R2 : Mr.Yogesh Kannadasan
Special Government Pleader
For R3 : Mr.D.Lakshmipathy

ORDER

This petition has been filed to quash the impugned order in Na.Ka.No.7843/AA1/2022 dated 27.02.2023 passed by the 1st respondent and for a direction to the 1st respondent to conduct a fair enquiry on the appeal dated 22.12.2022 preferred by the petitioner.

2. Heard Mr.P.Vijendran, learned counsel for the petitioner as well as Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.D.Lakshmipathy, learned counsel for the 3rd respondent and perused the materials available on record.



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3. Through an order dated 29.01.2020, the 2nd respondent/District Registrar had cancelled the document Nos.1863/2004, 1328/2006 and 1822/2015, which are the sale deeds standing in the name of the petitioner, under Section 77-A of the Registration Act, 1908. When the petitioner had challenged the said cancellation order by invoking Section 77-B of the Act before the 1st respondent, through his appeal petition dated 22.12.2022, the same was rejected on the ground that it is barred by limitation.

4. Learned counsel for the petitioner submitted that he was not aware of the original order passed and that, no notice has been issued by the 2nd respondent while such order was passed and therefore, when the order was communicated to him on 06.12.2022, he had filed an appeal on 22.12.2022, which is within 20 days as prescribed in Section 77-B of the Act.

5. A perusal of the original order of the 2nd respondent dated 29.01.2020, would reveal that initially, the notice that was sent to the petitioner was returned with a postal endorsement “insufficient address”. Thereafter, on 11.11.2019, another summons was also returned with a postal



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endorsement “no such person and address”. Apparently, the 2nd respondent had issued notices addressed to the petitioner, to wrong addresses. When notices are returned with endorsements that the address was insufficient or no such person or no address at all, the 2nd respondent is bound to send notice to the correct address and only when such notices are either served or refused by the petitioner, can they proceed to pass final orders.

6. In the case of the *Collector of Central Excise Vs. M/s.Rubber & Co.* reported in 1991 AIR SCC 2141, it was held that the words, “from the date of decision or order” used with reference to the limitation for filing an appeal or revision under certain statutory provisions have come up for consideration in a number of cases and on the basis of the uniform ratio of these decisions, it was held that in the case of a person aggrieved, filing the appeal or revision, it shall mean the date of communication of the decision or order appealed against. In the case of *State of Punjab Vs. Amar Singh Harika* reported in AIR 1996 SC 1313, it was held that an order of dismissal can only be effective after it is communicated to the officer concerned, or is otherwise published. So also in the case of *State of West Bengal and Others Vs.*



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R.K.B.K. Limited and Another reported in 2015(10) SCC 369, it was held that

a communication of an order is a necessary ingredient for bringing an end result to a status or to provide a person an opportunity to take recourse to law.

7. The aforesaid decisions of the Hon'ble Supreme Court are some among the catena of decisions on this aspect. Thus, for the purpose of computation the limitation period, for challenging an order, the commencement of the limitation would be from the date on which the order is communicated to the affected person and not from the date of the order.

8. In the background of the dictum laid down by the Hon'ble Supreme Court in the aforesaid decisions, it is seen that Section 77-B of the Act prescribes the limitation of 30 days to an aggrieved person to challenge the order of the Registrar passed under Section 77-A of the Act to the appellate authority. The 2nd respondent had cancelled the petitioner's sale deeds, by invoking powers under Section 77-A of the Act on 29.01.2020. This order of cancellation was communicated to the petitioner on 06.12.2022. The



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petitioner thereafter, had preferred the appeal on 22.12.2022. Thus, the limitation period of 30 days as prescribed in Section 77-B of the Act, would commence from 06.12.2022 and since the petitioner had preferred appeal before the 1st respondent on 22.12.2022, the appeal is deemed to have been filed in time.

9. In the light of the above observations, the impugned order dated 27.02.2023 is quashed and the matter is remitted back to the 1st respondent. The 1st respondent shall consider all the grounds raised by the petitioner in his appeal petition dated 22.12.2022, after giving due opportunity to the petitioner, as well as the 3rd respondent and pass appropriate orders in accordance with law, within a period of three months from the date of receipt of a copy of this order.

With the above direction, the Writ Petition is allowed. No costs.

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Index : Yes
Neutral Citation : Yes
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