IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.09.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.M.A.No.45 of 2018 and
C.M.P.No.564 of 2018

Chandra Eswaran ...Appellant

Vs.

1. The Chief Controlling Revenue
   Authority cum Inspector of General of Registration,
   Santhome High Road,
   Chennai – 600 004.

2. The District Revenue Officer,
   (Stamps), Coimbatore.

3. The Sub Registrar,
   Surampatti, Erode Taluk & District. ...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 47A(10) of the Indian Stamp Act, challenging the order passed by the The Chief Controlling Revenue Authority cum Inspector of General of Registration, Chennai, in Mu.Mu.No.38681/N2/2017 dated 12.12.2017, which was received by the appellant on 22.12.2017 confirming the order of the District Revenue Officer (Stamps), Coimbatore, in Mu.Pa.No.397/14 dated 22.06.2015.

For Appellant	:	Mr.S.Kaithamalai Kumaran
For Respondents	:	Mr.P.Harish Government Advocate (Civil Side)

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JUDGMENT

This appeal is filed challenging the fair and order passed by the Chief Controlling Revenue Authority cum Inspector General of Registration, Chennai, in Mu.Mu.No.38681/N2/2017 dated 12.12.2017, which was received by the appellant on 22.12.2017 confirming the order of the District Revenue Officer (Stamps), Coimbatore, in Mu.Pa.No.397/14 dated 22.06.2015.

2 It is the grievance of the appellant that he produced documents for registration, which was withheld for proper stamp duty, against which the appellant has filed an appeal before the Chief Controlling Revenue Authority cum Inspector General of Registration, Chennai, and the appeal was dismissed on the ground of limitation.

3 According to the appellant, the order of the District Revenue Officer (Stamps), Coimbatore, in Mu.Pa.No.397/14 dated 22.06.2015, was not duly served on the appellant or intimated and later when the appellant came to know about the order of the second respondent, filed an appeal before the first respondent and the first respondent, without looking into the fact that as to whether the order copy was duly served on the appellant in time and appeal has been filed within the time limit either from the date of service or from the date of knowledge, dismissed the appeal on the ground of limitation, which is erroneous. Further there is no material to show as to whether the order of the second respondent was duly served on the appellant or not. Hence the dismissal of appeal by the first respondent is erroneous, which is liable to set aside.

4 Per contra, learned Government Advocate (Civil Side) for the respondents would submit that the second respondent passed the order dated 30.06.2014 and on the same day it was dispatched to the address of the appellant and the appellant despite knowing fully well, belatedly filed the appeal beyond the period of limitation and hence the first respondent dismissed the appeal. Therefore there is no merit in the appeal and the same is liable to be dismissed.

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

6 Admittedly the appellant presented the document for registration and the second respondent passed the order dated 22.06.2015 in Mu.Pa.No.397/14, in which the appellant was directed to pay the deficit stamp duty, against which the appellant filed an appeal before the first respondent, which was dismissed on the ground of limitation.

7 It is the main contention of the appellant that the order of the second respondent was not duly served on him and when she came to know about the same, filed an appeal and the first respondent without even ascertaining the fact as to whether the order of the second respondent was duly served on the appellant or not, dismissed the appeal on the ground of limitation. But, according to the learned Government Advocate, the order was communicated on the same day itself by dispatching the same to the address of the appellant.

8 Admittedly the second respondent passed the order on 22.06.2015 and there is no document produced by the second respondent to show that the order copy was duly served on the appellant and even then the appeal has been preferred beyond the period of the limitation. In the absence of any proof that the order copy was duly served on the appellant, this Court finds that the order of the first respondent dismissing the appeal on the ground of limitation is perverse.

9 Further limitation is mixed question of law and fact and hence the fact of service has to be established. But, there is no finding in the order passed by the first respondent regarding date of service on the appellant. In the absence of factual proof that the order was duly served on the appellant and despite service, she filed the appeal beyond the period of limitation, the finding of the first respondent is erroneous and the same is liable to be set aside.

10 Accordingly, the order of the Chief Controlling Revenue Authority cum Inspector of General of Registration, Chennai, in Mu.Mu.No.38681/N2/2017 dated 12.12.2017, is hereby set aside. However, since it is regarding valuation of the property and fixing stamp duty, the matter is remitted back to the first respondent for considering the appeal afresh. The first respondent is directed to decide the appeal on merits in accordance with law after giving opportunity to the appellant. Consequently connected miscellaneous petition is also closed. No cost.

20.09.2023

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Index: Yes/No
Speaking Order: Yes/No
Neutral citation: Yes/No

To

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   Authority cum Inspector of General of Registration,
   Santhome High Road,
   Chennai – 600 004.

2. The District Revenue Officer,
   (Stamps), Coimbatore.

3. The Sub Registrar,
   Surampatti, Erode Taluk & District.

4. The Section Officer, V.R.Section,
   High Court, Madras.

P.VELMURUGAN. J.,

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