BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.56 of 2015
and
M.P(MD) No.1 of 2015

R.Murugan ..... Appellant /Appellant/Respondent

-vs-

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 28.
.... 1st Respondent/ Appellate Authority/ Third party

2. The Special Deputy Collector (Stamps)
Tirunelveli.
.... 2nd Respondents/Respondent-1/ Authority

3. The Sub Registrar,
Moolakaraipatti Sub Registrar Office,
Moolakaraipatti,
Nanguneri Taluk,
Tirunelveli District. .... 3rd Respondent/ 2nd Respondent/ Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 47-A(10) of the Indian Stamp Act, 1899 r/w Rule 9(5) of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, to set aside the order dated 03.11.2014 passed by the first respondent in Mu.Mu.No.36857/N5/2014 confirming the order dated 31.01.2011 passed by the second respondent in Na.Ka.X No.1/1008/2007.

For Appellant : Mr.D.Nallathambi

For Respondents : Mr.N.G.A.Natraj
Government Advocate

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the appellant challenging the order passed by the Inspector General of Registration dismissing the appeal arising under Section 47-A of the Indian Stamp Act, on the ground that an appeal has been presented after a period of three years and five months.

2. According to the learned counsel appearing for the appellant, the final order of the Special Deputy Collector was served upon the appellant only on 13.06.2014 and therefore, while calculating a period of two months

from the said date, the appeal is in time. He further contended that the Inspector General of Registration has not properly appreciated the fact that the final order of the said Special Deputy Collector was not served upon him in the year 2011 and therefore, there is no delay at all in filing the appeal, and the order copy was received only on 13.06.2014.

3. According to the learned counsel appearing for the appellant, the Special Deputy Collector has passed the final order without issuing Form-I and Form-II notices and therefore, the order of the Special Deputy Collector is bad in the eye of law and it was not properly appreciated by the Inspector General of Registration. Hence, he prayed for setting aside the order passed by the Inspector General of Registration and a direction to the Inspector General of Registration to consider the appeal on merits.

4. Per contra, the learned Government Advocate appearing for the respondents had contended that Form-I and Form -II notices were served upon the petitioner and the petitioner has not appeared before the Special Deputy Collector. Thereafter, final order was passed on 31.01.2011. This final order was communicated to the appellant by way of registered post on

17.02.2011 and the same was received and acknowledged by the appellant on 18.02.2011. Therefore, when the appellant had received the final order of the Special Deputy Collector on 18.02.2011, the appeal before the Inspector General of Registration ought to have been filed within a period of two months thereafter. However, the appeal have been filed on 04.08.2014 and hence is barred by limitation and therefore, the appellate authority has rightly rejected the appeal.

5. I have carefully considered the submissions made by the learned counsel on either side.

6. A perusal of the order passed by the first respondent in the appeal viz., the appellate authority indicates that the order has not been passed on merits, but the order of rejecting the appeal has been passed on the ground of limitation viz., the appeal has been filed after a period of three years and five months from the date of the final order. It is the specific case of the appellant that the order copy of the final order passed by the second respondent herein on 31.01.2011 was not at all served and the petitioner had received the said order copy by way of Right to Information Act, only on 13.06.2014.

7. However, a perusal of the typed set of papers filed by the learned Government Advocate for the respondents indicates that the final order passed by the second respondent/ Special Deputy Collector (Stamps) has been served upon the appellant by way of registered post with acknowledgment card. The final order of the second respondent has been received by the appellant himself and an acknowledgement card is also enclosed in the typed set of papers. Therefore, it is clear that the appellant had received the final order passed by the second respondent on 18.02.2011. The appellant ought to have filed an appeal before the Inspector General of Registration on or before 17.04.2011, as per Rule 9 of the Tamil Nadu Stamp Act (Prevention of Undervaluation of Instruments) Rules 1968. The said Rule does not empower the appellate authority to condone the delay beyond a period of two months. Therefore, the appellate authority having not been vested with the power to condone the delay, has no other option, except to reject the appeal filed by the appellant on the ground of limitation. I do not find any ground to interfere in the appeal.

8. Accordingly, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

13.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi

To

1. The Inspector General of Registration,
   Office of the Inspector General of Registration,
   No.100, Santhome High Road,
   Chennai – 28.

2. The Special Deputy Collector (Stamps)
   Tirunelveli.

3. The Sub Registrar,
   Moolakaraipatti Sub Registrar Office,
   Moolakaraipatti,
   Nanguneri Taluk,
   Tirunelveli District.

4. The Section Officer,
   Vernacular Records,
   Madurai Bench of Madras High Court,
   Madurai.

R.VIJAYAKUMAR,J.

ebsi

C.M.A.(MD)No.56 of 2015

13.03.2023