



W.P.(MD)No.14664 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14664 of 2015

and

M.P.(MD)No.1 of 2015

LPV.Palaniappan

... Petitioner

-Vs-

1.The Chief Revenue Controlling Authority /
Inspector General of Registration,
Office of Inspector General of Registration,
No.120, Santome High Road, Chennai.

2.The Special Deputy Collector (Stamps),
Virudhunagar District, Virudhunagar.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records in pursuant to the order passed by the 1st respondent in Mu.Mu.No.41656/N4/2014, dated 05.02.2015 and quash the same as illegal.

For Petitioner : Mr.M.Karthikeyavenkitachalapathy

For Mr.S.Madhavan

For R1 to R3 : Mr.D.Gandhiraj,

Special Government Pleader



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ORDER

Heard the learned counsel on either side.

2.The petitioner purchased the petition mentioned property vide sale deed dated 27.07.2007 (Document No.2864/2007) from one Krishnan. The Sub Registrar, Devakkottai kept the document as pending document. Reference was made under Section 47(A) of Indian Stamp Act.

3.At this stage, the petitioner decided to reconvey the property to the very same Krishnan. Document No.99/2010 was executed on the file of the Sub Registrar, Devakkottai on 11.01.2010. That was also kept as pending document. Subsequently, the appellate authority / Chief Revenue Controlling Authority (Inspector General of Registration) fixed a value at Rs.40/- per sq.ft in respect of 2010 document.

4.In the case of 2007 document, the Special Deputy Collector (Stamps), Virudhunagar had fixed a value at Rs.60/- per sq.ft. Steps were taken for recovering the deficit amount from the petitioner. Thereafter, the petitioner woke



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up and filed an appeal before the 1st respondent. An appeal under Section 47(A) (5) of Stamp Act should have been filed within 60 days. In this case, there was a huge delay of 5 years 2 months and 29 days. Therefore, on the ground that sufficient cause was not made out for condonation, the appeal was rejected. Challenging the said communication dated 05.02.2015 passed by the Inspector General of Registration, the present Writ Petition came to be filed.

5.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of this petition and called upon this Court to grant relief as prayed for.

6.The respondents have filed counter affidavit and the learned Special Government Pleader took me through its contents. The objections raised by the respondents were two fold. Firstly, proper explanation has not been given for entertaining the appeal after delay. It is well settled that unless sufficient cause is made out, the applicant is not entitled for condonation of delay. Secondly, he submitted that the Writ Petition is not maintainable and only Civil Miscellaneous Appeal will lie. He therefore pressed for dismissal of the Writ Petition.



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7.I must observe that both objections raised by the learned Special Government Pleader are sound. Yet this Court cannot lose sight on the equities obtaining in this case. The petitioner had purchased the property in question from one Krishnan in the year 2007 and resold to him in the year 2010. The appellate authority has chosen to value the property at Rs.40/- per sq.ft. In other words, the transaction that took place in the year 2010 was valued at Rs.40/- sq.ft. However, the transaction between the very same parties, which has been entered into in the year 2007, was valued at Rs.60/- per sq.ft. This, on the face of it, is highly inequitable.

8.Therefore, it is not a matter which the first respondent should have handled technically. It is in this view of the matter, the order impugned in the Writ Petition is set aside and the matter is remitted back to the file of the 1st respondent and the 1st respondent shall dispose of the petitioner's appeal on merits and on the same terms in which the document No.99/2010 on the file of the Sub Registrar, Devakkottai was dealt with. If there is any 'samathan scheme', the petitioner's case can also be disposed of accordingly. The appellate authority



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should have disposed of the petitioner's appeal by adopting the approach taken in the case of the 2010 document. The petitioner need not have been driven to this Court at all. The petitioner cannot be blamed for 8 years' delay due to the pendency of this Writ Petition. The petitioner is entitled for waiver of the interest for the period consumed in prosecuting this Writ Petition.

9.This Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

14.07.2023

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

Yuva

To

1.The Chief Revenue Controlling Authority /
Inspector General of Registration,
Office of Inspector General of Registration,
No.120, Santome High Road, Chennai.



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G.R.SWAMINATHAN, J.

Yuva

2.The Special Deputy Collector (Stamps),
Virudhunagar District, Virudhunagar.

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