



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2024

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 34996 of 2024

And

W.M.P.Nos. 37947 & 37949 of 2024

P.subramaniam

... Petitioner

..Vs..

1. The District Collector cum Appellate Authority
Under Senior Citizen Act
Office of the District Collectrate
Namakkal District.
2. The Revenue Divisional Officer
Thiruchenkodu Taluk
Nammakkal District.
3. S.Hariharan

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the entire records pertaining the first respondent order in his proceeding Na.Ka.No. 710/Po.Pa.Sa/2022 dated 05.04.2023 in respect of 11th column alone and quash the same as illegal and further directing the first respondent to dispose petitioner's appeal dated 07.08.2024 along with condone delay in accordance with law on merit



within a stipulated time.

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For Petitioner

:: Mr. P.Dhanasekaran

For RR 1 & 2

:: Mr. Vadivelu Deenadayalan
Additional Government Pleader

ORDER

The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order of the first respondent, District Collector cum Appellate Authority, under Senior Citizen Act, Office of the District Collectrate, Namakkal District, in proceedings dated 05.04.2023 and quash the same and direct the first respondent to dispose the Appeal of the petitioner dated 07.08.2024 along with the application filed seeking to condone the delay in accordance with merits.

2. In the affidavit filed in support of the Writ Petition, it had been stated by the petitioner, a Senior Citizen that he had purchased a property under registered sale deed situated at No.44, H2B, East Colony Kumarapalayam at Chennai by document registered as Doc.No. 2624 of 1984 at North Chennai District Registrar's Office, Chennai. He had also put up construction over the said property. He had three sons. His sons pressurised him to execute the settlement deed. He executed a conditional settlement deed to the third



respondent on condition that the third respondent would maintain the petitioner and his wife. The settlement deed was executed on 30.09.2013 and registered as Document No. 7046 of 2013 at the Sub Registrar Office, Kumarapalayam. There was a specific covenant that the third respondent would be able to enjoy the property only after the death of the petitioner and his wife. It had been stated that since the third respondent did not take care of him, a petition was filed before the Revenue Divisional Officer on 27.08.2021. An order had been passed adverse to the petitioner herein. The petitioner could not file an Appeal within the prescribed period and he had therefore filed an application seeking to condone the delay along with Appeal.

3. The Appeal filed by the petitioner was rejected by the impugned order by the first respondent who stated that the Appeal had been filed beyond the period of 60 days. But however, a perusal of Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 reveals that the Appellate Authority has power to admit an Appeal even after expiry of 60 days, provided the appellant shows sufficient cause for the delay. There is no discussion in the impugned order about the examination of reason of delay or even whether the appellant was heard about the reason for delay. The petitioner has been seriously prejudiced by the order. The order is a



non speaking order and berefet of reasons.

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4. Accordingly, the impugned order dated 05.04.2023 is set aside and this Writ Petition stands allowed. It is remanded back to the first respondent for fresh consideration of the reasons advanced for the delay in filing the Appeal. The petitioner may be heard and his representation must be taken into consideration and orders must be passed only after considering all aspects of the matter.

5. The first respondent is directed to examine the application seeking to condone the delay within a period of three months from the date of copy of this order. The Appeal of the petitioner is restored to the file of the first respondent. Consequently, connected Miscellaneous Petition stands closed. No order as to costs.

10.12.2024

vsg
Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order

To

1. The District Collector cum Appellate Authority
Under Senior Citizen Act
Office of the District Collectrate
Namakkal District.
2. The Revenue Divisional Officer
Thiruchenkodu Taluk
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C.V.KARTHIKEYAN, J.,

vsg

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