BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2024

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.P(MD)No.17738 of 2024
in
C.M.A(MD)No.SR 77476 of 2024

S.Noor Jahan ...Petitioner/Appellant

-Vs-

1.The Chief Controlling Revenue Authority and
Inspector General of Registration,
No.100, Santhome High Road,
Chennai.

2.The Special Deputy Collector(Stamps)
Stamp and Tax,
Virudhunagar.

3.The Joint-II Sub Registrar,
Sub-Registrar's office,
Karaikudi,
Sivagangai District. ... Respondents/Respondents

PRAYER in C.M.P(MD)No.17738 of 2024: Civil Miscellaneous Petition is filed under Section 5 of the Limitation Act, to condone the delay of 2793 days in filing the above appeal.

Prayer in C.M.A(MD)No.SR 77476 of 2024: This Civil Miscellaneous Appeal is filed under Section 47-A(10) of the Indian Stamp Act, 1899, to set aside the impugned order of the 1st respondent in Na.Ka.No. 45270/N4/N3/2014 dated 22.12.2016 and the consequential recovery proceedings under Revenue Recovery Act by the 2nd respondent in Tha.Pa.No.S2/136/2014 dated 30.09.2020 by allowing this appeal.

For Petitioner : Mr.K.Arunraj
For Respondents : Mr.B.Saravanan,
Additional Government Pleader

O R D E R

This Civil Miscellaneous Petition has been filed by one S.Noorjahan, under Section 5 of the Limitation Act, to order to condone the delay of 2793 days in filing the Civil Miscellaneous Appeal, against the Order of the first respondent in Na.K.aNo.45270/N4/N3/2014, dated 22.12.2016.

2.In the affidavit, the petitioner has averred that she purchased the vacant site measuring 1200 sq.ft., in T.S.No.415/4, 115.59 sq.ft., for pathway in Town S.No.415/2 situated in Block No.10, Ward-16, Karaikudi Town, Sivagangai District, through a registered sale deed, dated 31.01.2014 in Document No.673/14, before the Joint Sub Registrar-II Karaikudi, for a total sale consideration of Rs.4,80,000/- and paid stamp duty of Rs.64,500/. The Registering Authority, after registering the documents, referred the sale deed under Section 47(A) of the Stamp Act, alleging under valuation before the second respondent for determination of the market value of the property. It appears that on 17.03.2014, Form-I notice was issued to the petitioner under Rule 4(1) of Tamil Nadu Stamp (Prevention of Undervaluation of Instruction) Rules 1968(herein after referred to as the "Rules").

3.On receipt of the said Form-I notice, she submitted her objection on 04.04.2024 and the second respondent determined the market value of the property provisionally at Rs.25,00,828/- as against the value of Rs. 4,80,000/- as mentioned in her sale deed. The stamp duty payable by her was determined at Rs.1,75,058/(her stamp duty already paid to be deducted). She was issued second notice in Tha.Pa.No.S2/136/2014, dated

03.06.2014 informed to pay the balance deficit stamp of Rs.1,10,560/- (Rs.1,75,058-64,500 stamp fee paid by the petitioner = Rs.1,10,560/-). She submitted her further representation to the second respondent on 27.06.2014 for determination of market value of the property. Her representation was not considered and final orders was passed on 14.07.2014 directing her to pay Rs.1,10,560/- as under valuation of the stamp duty was ordered.

4.Thereafter, she preferred an appeal before the first respondent under Section 47-A(5) of the Tamil Nadu Stamp (Prevention of under Valuation of Instrument) Rules, 1968 on 24.09.2014 explaining all the facts that the order of the second respondent was improper, biased and suffers from procedural irregularity and that her appeal was dismissed by ordering her to remit the remaining amount of stamp duty. Thereafter, the impugned final order was passed in Na.Ka.No.45270/N4/N3/2014, dated 22.12.2016 by holding that as per the guideline value of the property (Rs.26,31,180/-), she is liable to pay the balance of stamp duty of Rs.1,10,560/-. It appears that the proceedings was issued in Tha.Pa.No.S2/138/2014 dated

03.03.2017 demanding her to pay the balance deficit stamp duty amount together with interest at Rs.1,11,700/-.

5.In the meanwhile, the petitioner had applied for Samadhan Scheme by a requisition dated 07.02.2018 to the first respondent herein. Her request was rejected by the first respondent herein, by proceedings dated 02.04.2018, by stating that the said scheme is applicable only to the pending proceedings.

6.As regards the reasons for the delay, it is the petitioner's case that due to heavy financial strain, she was searching for a buyer for sale of the said property in order to settle the dues. Mean while, in the wake of Pandamic Covid-19 for about 1 ½ years there has been lock down. In the meanwhile, the second respondent issued the impugned demand notice on 30.09.2020. It also appears that she filed a writ petition in W.P(MD)Nos. 15322 to 15329 of 2021 by challenging the order passed by the first respondent confirming the order of the second respondent along with the order initiating the revenue recovery proceedings. As she can only file C.M.A, by order dated 22.08.2024, her writ petition was dismissed with liberty to her to file a fresh petition.

7. In fact the limitation law is designed in order to effectuate efficient public benefit. It is an Act founded on consideration of public policy.

8. On a careful perusal of the records, it appears that notice was issued to the petitioner herein on 17.03.2014 under Rule 4(1) of Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules, 1968. Objection by the petitioner was submitted on 04.04.2014. Thereafter, Stamp Duty payable by the petitioner was fixed. Thereafter, second notice in Form 2 was issued to the petitioner on 03.06.2014. It appears that the petitioner sent a representation to the 2nd respondent on 27.06.2014. Thereafter, the 2nd respondent passed final orders on 14.07.2014, directing the petitioner to pay Rs.1,10,560/- as undervaluation of Stamp Duty payable by the petitioner.

9. Following the above said final order of the 1st respondent, the 2nd respondent issued proceedings in Ta.Pa.No.S2/138/2014 dated 03.03.2017 demanding to pay the balance deficit stamp duty together with an interest of Rs.1,11,700/-. While so, Samadhan Scheme was introduced on 29.12.2017 for settlement of payment of deficit stamp duty. When he applied for Samadhan Scheme on 07.02.2018 to the 1st respondent herein for settlement of dues, his request was rejected by the 1st respondent by his proceedings dated 02.04.2018 by stating that the said scheme is applicable only to the pending proceedings. In the meantime, the 2nd respondent issued the impugned demand notice on 30.09.2020 issued under Revenue Recovery Act. The petitioner filed a writ petition in W.P.(MD)No.15322 to 15329 of 2021 challenging the order passed by the 1st respondent along with the order initiating revenue recovery proceedings and these writ petitions were dismissed by this Court on 22.08.2024 granting leave to file the present appeal.

10. Sale deed is registered on 31.01.2014 in Doc.No.673/2014 before the Joint Sub-Registrar-II, Karaikudi. In the year 2016, the 1st respondent passed an order to pay the balance stamp duty of Rs.1,10,560/- after two years from the date of sale. In the year 2020, demand notice under Revenue Recovery Act was issued.

11. As regards reasons for the delay, filing of writ petition is mentioned as delay. But, from the year 2014, why it was delayed and reasons for the delay have not been stated in the affidavit. The sale deed was registered in the month of January 2014 and writ petition was filed only in the year 2021, after 7 years and disposed of in the year 2024.

12. In the given circumstances, the cause for the delay shown by the petitioner appears to be not genuine and this Court finds solid inaction on the part of the petitioner. In fact, for the long period of delay, the affidavit is silent as regards the narration on sufficient cause.

13. Viewed from any angle, the petitioner lacks bonafides. In order to advance cause of justice, this Court does not find any merits in the petition and accordingly, this Civil Miscellaneous Petition stands dismissed. Consequently, C.M.A.SR stands rejected at SR stage.

12.12.2024

NCC:Yes/No

Index:Yes/No

Internet::Yes/No

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To

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R. KALAIMATHI,J.

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