

(2022) 11 DEL CK 0200
In the Delhi High Court
Case No : Civil Writ Petition No. 966 Of 2022

Krishan Chand Gupta

APPELLANT

Vs

Sub Registrar VI-B & Ors ?

RESPONDENT

Date of Decision : 30-11-2022

Acts Referred:

Delhi Registration Rules, 1976 — Rule 43
Registration Act, 1908 — Section 25, 72, 75

Citation : (2022) 11 DEL CK 0200

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Joby P. Varghese, Aby P. Varghese, Archit, Jawahar Rana, Richa Dhawan, Anuj Chaturvedi, Vanshika Ayarmal

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner - Mr. Krishan Chand Gupta seeking directions to the Respondents i.e., Respondent No.1 - Sub-Registrar VI-B, Alipur, Delhi, Respondent No.2 - Sub-Divisional Magistrate, Narela, and Respondent No.3 - Delhi State Industrial and Infrastructure Development Corporation (DSIIDC), to register the lease deed in question, without demanding an amount equal to six times of the prescribed registration fee.
3. The brief chronology of events is that the Petitioner was allotted a plot bearing No.1, Pocket-1, Sector-1, admeasuring 250 sq. mtr. at DSIIDC, Bawana, Delhi, vide allotment in the name of M/s. Krishna Wire Industries, which is stated to a sole proprietary concern of the Petitioner. In the month of July/August, 2010, the Petitioner applied for the execution of the lease deed with the DSIIDC. The application filed by the Petitioner seeking execution of the lease deed was

referred to the Revenue Authority, Narela for paying registration fees with three sets of the lease deed. For the said purpose, the Revenue Officer raised a challan of Rs.73,320/-. The said challan was duly paid. Thereafter, upon the challan amount being revised, the Petitioner deposited the sum of Rs.80,627/- on 9th August, 2010.

4. On 9th October, 2020, the lease deed was duly executed and the DSIIDC issued two sets of the duly executed lease deed for registration in the office of the Respondent No.2 – SDM, Narela. The Petitioner sought appointment with the Respondent No.1 - Sub-Registrar VI-B, Narela, for registration of the same, by depositing the necessary e-stamp fees and registration charges. On 15th October, 2020, upon his arrival at the office of the Sub-Registrar, Narela, along with witnesses for the registration of the lease deed, the Petitioner was again informed that there was a difference in the challan amount deposited by him and the amount mentioned in the lease deed. Thus, the Petitioner was required to deposit the differential amount of Rs.7,267/-. In order to deposit the said differential amount, the Petitioner approached the SDM, Narela, under instructions of the office of the Sub-Registrar, and deposited the same on 21st December, 2020. The proof of deposit of Rs.80,627/- was also submitted to the Sub-Registrar, Narela, but the Petitioner was directed to obtain a certified copy of the challan and get the same verified by the SDM, Narela.

5. Finally, the verification of the receipt of the payment of Rs.80,627/- was given to the Petitioner, vide letter dated 15th July, 2021. The Petitioner immediately thereafter approached the Sub-Registrar, Narela, so that the lease deed could be registered in his favour, However, he was informed that his application was time barred, and hence, he was required to apply for extension of time. Accordingly, pursuant to the instructions of the office of the Sub-Registrar, Narela, the Petitioner filed an application dated 23rd July, 2021 seeking extension of time, categorically stating that the certified copy of the challan verifying the amounts deposited by the Petitioner was issued by the office of the SDM, Narela only on 15th July, 2021. However, the said application of the Petitioner was disposed of by the Sub-Registrar, vide impugned order dated 31st August, 2021 and the Petitioner was directed to deposit six times of the amount prescribed as registration fee, due to delay in the registration of the said lease deed. The Petitioner's application seeking reconsideration was also rejected, vide letter dated 20th September, 2021. Hence, the Petitioner has filed the present writ petition, seeking the following prayers:

"i. Pass appropriate Writ/Order quashing the orders dated 31.08.2021 and 20.09.2021 passed by Respondent No.1 directing Petitioner to deposit/submit the registration fee an amount equal to six times of the prescribed registration fees and thereafter to present the perpetual lease deed on any working day in the office of Sub-Registrar VI-B Narela with prior online appointment;

ii. Issue a Writ of Mandamus or any other appropriate Writ/Directions/Order directing Respondent No.1 to register the lease deed dated 09.10.2020 issued by

Respondent No.3 DSIIDC in respect of plot no.1 pocket 1 Sector 1 admeasuring 250 Sq. Mtr at DSIIDC, Bawana, Delhi in favour of the Petitioner;”

6. Notice was issued in the present petition on 17th January, 2022. Replies were to be filed by the Respondent Nos.1 & 2. Till date, no reply has been filed by the Respondent Nos.1 – Sub-Registrar, Narela, Respondent No.2 – SDM, Narela.

7. Ld. Counsel for the Respondent No.3 – DSIIDC submits that a counter affidavit has been filed by the DSIIDC. A perusal of the said counter the DSIIDC has stated that no cause of action has arisen against the DSIIDC. However, in paragraph 7 of the said counter affidavit filed on behalf of the DSIIDC, it is confirmed that the Plot No.1, Pocket 1, Sector 1, measuring 250 Square Meter, was allotted in the name of M/s. Krishna Wire Industries, and the proprietor of the same is the Petitioner, under the Relocation Scheme of Industries, 1996. The four sets of perpetual lease deeds having been issued by the DSIIDC is also not disputed for the purpose of depositing the stamp duty. The stamped lease deed was also sought from the DSIIDC, which was also given to the Petitioner. The relevant paragraph of the counter affidavit of the DSIIDC is set out below:

“7. That I say that the Plot bearing No.1, Pocket-1, Sector-1, measuring 250 sq. meters was allotted in the name of M/s Krishna Wire Industries, through its Proprietor - Shri Krishan Chand Gupta under Relocation Scheme of Industries, 1996 and on the request of the Petitioner made in the year 2010 four sets of perpetual lease deeds were given to the Petitioner for depositing stamp duty in the office of Collector of Stamp, Delhi.

8. That I say that the Petitioner was directed to submit three copies duly stamped Perpetual Lease Deeds with answering Respondent for necessary execution and after submissions of three sets of Perpetual Lease Deeds with the duly paid stamp duty, answering Respondent (DSIIDC) executed the Lease Deed on 09.10.2020

9. That I say that after execution the two sets of Perpetual Lease Deed were returned to the Petitioner for registering the same with the Sub-Registrar Office, Delhi.”

8. Ld. Counsel for the Petitioner submits that the Petitioner is unnecessarily being harassed by raising demands of six times of the prescribed registration fee. He submits that the Petitioner has deposited the original challan amount within the limitation period. It was only due to the revision of the challan amount on multiple occasions that the delay occurred, and the same was due to no fault of the Petitioner.

9. Heard Ld. Counsels for the parties and perused the record. It is relevant to note that the question of delay in presentation of any document for registration is dealt with under Section 25 of the Indian Registration Act, 1908. The said provision stipulates as under:

“25. Provision where delay in presentation is unavoidable.—

(1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in 2[India] is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration-fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate."

10. Further, the above provision is to be read with Rule 43 of the Delhi Registration Rules, 1976, stipulates the fines for delay in presenting a document or in appearance. The said provision is set out below:

"43. Fines for delay in presenting or in appearance. -(1) Fines for delay in presenting documents for registration shall be levied under section 25 of the Act, according to the following scale. No registration fee shall be levied in the addition to these fines.

Where the delay has not been more than one month an amount equal to twice the prescribed registration fee;

Where the delay has been more than one month, but not more than three an amount equal to three times the prescribed registration fee;

Where the delay has been more than two months, but not more than three an amount equal to six times the prescribed registration fee;

where the delay has been more than three months an amount equal of ten times the prescribed registration fee.

(2) Additional fines for delay in appearance shall be levied, under the proviso to section 34 of the Act, according to the same scale:

Provided that when the delay in presentation or when the delay in appearance has been occasioned by the necessity of obtaining any order of Deputy Commissioner under the Delhi Lands (Restriction on Transfer) Act, 1972 and has not been due to any default on the part of persons desiring registration, the fine levied under section 24, or the additional fine levied under section 34 of the Act, shall be an amount only nominally in excess of the prescribed registration fee.

(3) When a document has been executed by more than one person and such persons appear before the registering officer on different dates the amount of fine recovered under section 34 of the Act shall be according to the delay in the appearance of the executant who appears last and only one fine shall be recovered in such a case."

11. In the present case, the Petitioner had applied for the execution of the lease deed in July/August, 2010, and the challan amount of Rs.80,627/- was deposited

by the Petitioner on 9th August, 2010 itself. The lease deed with the Respondent No.3 - DSIIDC was executed by the Petitioner on 9th October, 2020, i.e., almost ten years later, on which date the DSIIDC issued two sets of the duly executed lease deed for registration in the office of the Respondent No.2 - SDM, Narela. Immediately after the execution of the said lease deed by the DSIIDC, the Petitioner has approached the office of the Respondent No.1 - Sub-Registrar for registration of the duly executed lease deed on 15th October, 2020 itself. Thus, there has been no delay in deposit and presentation of the said lease deed, that is attributable of the Petitioner. Under such circumstances, the imposition of a penalty upon the Petitioner would not be justified.

12. On the question of imposition of penalty in cases where the delay in registration is not attributable to the executants of a document, in *Shushilaben Pravinbhai Thakkar v. Sub-Registrar* [AIR 2004 Guj 121], the Court set aside the penalty imposed, and observed as under:

"8. Section 75 of the Indian Registration Act provides that the order by Registrar to register the document and procedure thereon. Section 72 of the Act provides for appeal against the order of the Sub-Registrar refusing registration on ground other than denial of execution. Therefore, merely because there is power to impose penalty it does not mean that in every case the penalty should be imposed. It would vary from facts to facts. If there is a voluntary default on the part of the author or executant of the document possibly the authority could have imposed penalty on the basis of degree of default. Even if it is a voluntary action, the aspect that whether there was any justifiable or unavoidable circumstance or not, will have to be examined by the authority at the time of imposition of penalty. But, in any case, whenever the person has not remained present for confession of the execution of the document on account of the prohibitory order of the competent Court, such ground in any circumstances cannot be said to be any default on the part of the author of the document. If there is no default on the part of the party and on the contrary the conduct of the executants of the document is that of law abiding citizen, there would not be any power on the part of the authority to impose penalty for such delay caused, which was on account of the injunction operating against the person concerned. As such, the judicial discipline and rule of law demands that whenever there is an injunction of any competent Court, it must be respected and should also be honored not only by the parties to the proceedings, but also by the other authority, who has to take into consideration the injunction granted by the competent Court unless the order is wholly without jurisdiction. In the present case, the Collector did find that there was an injunction of the Civil Court and the High Court. However, in spite of the same, penalty has been imposed. In my view, such an order of imposition of penalty by the Collector to a law-abiding citizen, who acted as per the order of injunction is not only without jurisdiction, but if it is allowed to stand, it would frustrate the basic principles of rule of law and of judicial discipline. It is required to be noted that the Collector, while exercising power under Section 72 of the Indian Registration Act is not acting as

an Administrative Officer, but is acting as quasi-judicial Authority so far as imposition of penalty is concerned. All quasi-judicial authorities must abide by the orders of competent Court(s) and also respect the orders of competent Court(s). If one authority passes order and if the other authority does not respect the order, it would result into lawlessness situation. Therefore, under any circumstances the order passed by the Collector for imposition of the penalty cannot be sustained in the eye of law. It was expected for the Collector to extend the time without imposition of penalty, in view of injunction of competent Court and conduct of petitioners No. 2/1 to 2/6."

13. Thus, on the basis of the foregoing discussion, it is clear that, in cases where the delay in registration cannot be said to be attributable to the executant of the said document, the imposition of penalty on the ground of delay would not be justified and would be liable to be set aside. In the present case, the delay, if any was on the part of the DSIIDC which took almost ten years to issue the executed lease deed. The Petitioner cannot be blamed for the same. In fact, when the lease deed was executed, a substantial sum of the registration fees was deposited by the Petitioner. Thus, the charging of penalty – that too six times would be grossly unreasonable.

14. Accordingly, subject to verification of all the relevant documents, the lease deed of the Petitioner shall be registered by the Respondent No.1 - Sub-Registrar VI-B, Narela, within a period of one month from today.

15. The present petition, along with all pending applications, is disposed of in the above terms.