(2005) 06 MAD CK 0021

In the Madras High Court

Case No : C.M.A. No. 1305 of 2005

M. Kaliammal APPELLANT

Vs

The Special Deputy Collector (Stamps) and Another RESPONDENT

Date of Decision : 28-06-2005

Acts Referred:

Limitation Act, 1963 — Section 5
Stamp Act, 1899 — Section 47A(5)

Citation : (2005) 3 CTC 529

Hon'ble Judges : R. Balasubramanian, J;Prabha Sridevan, J

Bench : Division Bench

Advocate : A. Sivaji, for the Appellant; R. Ashokan, Additional Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

R. Balasubramanian, J.—With the consent of the learned counsel on either side, the above appeal itself is taken up for final disposal.

2. In the appeal, the order dated 31.3.2005 passed by the second respondent is in challenge. In the impugned order, the statutory appeal filed u/s

47-A(5) of the Indian Stamps Act, stands rejected on the ground that it is barred by limitation. The learned counsel appearing for the appellant

would submit that along with the appeal before the second respondent, an application supported by an affidavit to condone the delay of 50 days

was also filed. However, according to him, the second respondent never exercises such a power to condone the delay on the premises that he has

no power.

3. The learned Additional Government Pleader defending the respondents would submit that the delay is not 50 days, but it is more than six

months. He would submit that the proceedings of the first respondent is dated 20.9.2004 and the appeal before the second respondent came to be

filed against the said order only on 23.3.2005.

4. A Division Bench of this Court in the judgment Indira Devi Vs. Inspector General of Registration and Others, dealing with a similar situation had

held that since the provisions of the Limitation Act is not excluded in matters relating to filing of an appeal, Section 5 of the Limitation Act gets

attracted. Having that law laid down by this Court, we perused the entire papers placed before us. Having regard to the nature of the order passed

by the first respondent, which is challenged before the second respondent, viz., demanding difference in payment of stamp duty payable on the

ground of under valuation we are of the firm opinion that ends of justice definitely requires the delay in filing the appeal, whether it is 50 days or six

months, to be condone. We find from the materials placed on record that the appellant had satisfactorily explained the delay. Consequently, the

impugned order is set aside and the appeal is allowed. Now costs. The second respondent is directed to take up the appeal on file and dispose it

of in accordance with law. CMP No. 7257 of 2005 is closed.

