
(2014) 09 AHC CK 0266
In the Allahabad High Court
Case No : Writ-C No. 48696 of 2014

Satyavir

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 11-09-2014

Acts Referred:

Limitation Act, 1963 — Section 5
Stamp Act, 1899 — Section 56

Citation : (2015) 108 ALR 862 : (2014) 125 RD 770

Hon'ble Judges : Surya Prakash Kesarwani, J

Bench : Single Bench

Advocate : Sharad Kumar Srivastava, Advocate for the Appellant

Judgement

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Surya Prakash Kesarwani, J.—Heard Sri Sharad Kumar Srivastava, learned Counsel for the petitioner and Sri B.P. Singh Kachhwah, learned Standing Counsel for the respondents.

This writ petition has been filed challenging the order dated 13.3.2014 passed by the Additional Collector, Ghaziabad in Stamp Case No. 140 of 2013-14, under section 47-A of the Indian Stamp Act, 1899 and the order dated 5.8.2014 passed by the CCRA, respondent No. 2 in Stamp Appeal No. 246 (M)/2013-14.

Briefly stated the facts of the case are that an order dated 13.3.2014 determining deficiency of stamp duty of Rs. 2,66,700.00 and imposing penalty of Rs. 10,000/- was passed by respondent No. 3 against which the petitioner filed an Appeal No. 246 of 2014 before the respondent No. 2 beyond limitation by 12 days. Along with appeal, the petitioner filed a Delay Condonation Application under section 5 of the Indian Limitation Act, explaining the delay. The limitation was upto 11.5.2014, while the appeal was filed on 23.5.2014. In the delay condonation application the petitioner has explained the delay. He stated that on 8.5.2014 he was suffering from vomiting and decantary and thus, he became

very weak and was not even able to move and as such he could not contact his Counsel. When there was some improvement then he went to his Counsel and obtained a certified copy of the order dated 15.5.2014. On account of fever and vomiting he again fell ill on 16.5.2014 and ultimately, when he recovered, he again contacted his Counsel on 23.5.2014 and thereafter, on the same day the appeal was filed.

2. The petitioner has sufficiently explained the little delay of 12 days in filing the appeal. The respondent No. 2 passed a non-speaking order in a mechanical manner and rejected the delay condonation application without noticing the facts stated in the application. The respondent No. 2 merely observed that 60 days limitation is provided and it is assumed that the petitioner was aware of the order and the reason disclosed for delay in filing the appeal are of general nature and as such the delay is not condonable.

3. In my view, the respondent No. 2 has passed the order in a mechanical manner. Each and every day of delay was properly explained by the petitioner in the delay condonation application. The explanation submitted by the petitioner for delay was not found by the respondent No. 2 to be false. The respondent No. 2 rejected the delay condonation application merely by one line observation that "Cause shown for delay is of general nature". Such an order rejecting the delay condonation application cannot be sustained.

4. Under the circumstances, the delay in filing the appeal by the petitioner before the respondent No. 2 is found to be condonable. The delay in filing the Appeal No. 246(M)/2013-14 is, therefore, condoned. The impugned order dated 5.8.2014 passed by respondent No. 2 is set aside. The appeal is restored to its original number. It is directed that the respondent No. 2 shall expeditiously decide the appeal of the petitioner in accordance with law, provided the petitioner complies with the conditions of pre-deposit, as prescribed under section 56 of the Act. The writ petition is allowed with the directions mentioned above and the matter is remanded to the respondent No. 2.