IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.NO.987 OF 2015 AND

M.P.NO.1 OF 2015

1. The Special Deputy Collector (Stamps)
Chennai Collectorate,
Singaravelar Maligai, Chennai

2. The Inspector General of Registration (Documents),
Santhome High Road,
Mylapore, Chennai

3. The Sub Registrar, Joint I,
Nellukara Street,
Kanchipuram - 631 502 .. Appellants/Respondents

Vs.

1. Thajunnisa
2. R.Riyaz Ahamed
3. Shamila Riyaz .. Respondents/Petitioners

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Appeal, to set aside the order dated 06.09.2013 made in W.P.No.29812 of 2011.

Petition Under Article 226 of the constitution of India to issue a writ of certiorari to call for the records of the second respondent dated 08.04.2002 and confirmed by the 1st respondent by a provisional order dated 09.01.2003 and quash the entire proceedings.

(Prayer amanded as per Court Order dated 15.03.2013 in M.P.No.1/2013 in W.P.No.29812 of 2011)

For Appellants : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

JUDGMENT
[Judgment of the Court was Delivered By
M.VENUGOPAL, J.]

The Appellants/Respondents have focused the present intra Court Writ Appeal as against the order dated 06.09.2013 in W.P.No.29812 of 2011 passed by the Learned Single Judge in allowing the Writ Petition.

2.According to the Learned Special Government Pleader for the Appellants, the Learned Single Judge should not have directed to delete the endorsement made in the sale deeds and return the same to the Respondents/Writ Petitioners.

3.The Learned Special Government Pleader vehemently contended that the Learned Single Judge ought to have noted the ingredients of Section 47 A(1) of the Indian Stamp Act, 1899 which stipulates that while registering certain class of value of the property has not been truly set forth in the endorsement in the instrument and after registering the instrument, the authority concerned shall refer the same to the Collector for the purpose of determination of market value of such property and proper duty payable thereon.

4.The Learned Special Government Pleader submits that the Respondents had suppressed the market value and presented the instrument with deficit stamp duty and therefore, the said endorsement was referred to the Collector under Section 47 A of the Indian Stamp Act, 1899.

5.The Learned Special Government Pleader urges before this Court that the Learned Single Judge had failed to appreciate an important fact that the date of presentation of a document for registration would be the crucial date for determining the market value of the property as per the decision of the Hon'ble Supreme Court in State of Rajasthan and others V. Khandaka Jain Jewellers reported in 2008 (1) CTC at page 60.

6.It is to be noted that the Respondents/Petitioners purchased 'Punja Cultivable Lands' in Survey Nos.1474/3 at Konneri kuppam Village, Kanchipuram Taluk by means of three registered Sale Deeds dated 06.04.1997, bearing Doc. Nos.526/97, 1041/97 and 1042/97 on the file of the Third Appellant/Sub Registrar, Joint-I, Kancheepuram. The clear cut case of the Respondents is that the Third Appellant/Third Respondent had refused to return the documents although the sale deeds were registered more than 5 ½ years ago, mentioning that the property purchased in terms of the documents should have been valued on square feet basis by adhering to the guideline value for the urban properties. Indeed, the valuation of the three sale deeds were determined at Rs.1,19,28,960/-, in contra, distinction to the valuation specified in the documents at Rs.1,23,120/-.

7.The version of the Third Appellant/Third Respondent in the counter affidavit (filed in the Writ Petition) indicates that the documents were registered but they were mentioned as agricultural lands. Further, the District Registrar in his inspection had found that the lands were in a developed area and only the Respondents/Petitioners has shown a lesser value than the guideline value and hence, he fixed the value at Rs.26,1600/- per acre. Moreover, after examining the report of the District Registrar, the Deputy Inspector General of Registration recommended the said value to be followed which was accepted by the Second Appellant/Second Respondent. As such, proceedings dated 08.04.2002 was issued by the Second Appellant/Second Respondent determining the value of the land at Rs.26,16,000/-.

8.It comes to be known that the First Respondent/First Petitioner gave a representation on 02.09.2002, mentioning the stamp duty in question was paid in accordance with the guideline determined during the year 1997, as the lands were classified as agricultural lands and that the fixation of guideline value after 5 ½ years was arbitrary and also without jurisdiction and prayed for return of documents. However, the Respondents' matter was referred to the First Appellant/First Respondent in terms of ingredients of Section 47 A(1) (b) of the Act for determination of the stamp duty. Added further, a notice under Form II was issued to them. The District Revenue Officer (Stamps) by virtue of an order dated 09.01.2003 directed the Respondents to pay deficit stamp duty and further, informed that interest at the rate of 2% would be levied in case of belated payments. However, the Respondents filed W.P.12080 of 2005 before this Court and based on the direction issued, documents were returned to the Respondents/Petitioners.

9.As far as the present case is concerned, the Third Appellant/Sub Registrar, Joint-I, Kancheepuram had registered the documents on 06.04.1997. It is to be noted that at the time of registration of documents, the concerned authority had not raised any simmering doubt as regards the market value of the property described in the sale deeds. In this connection, it is not out of place for this Court to make a relevant mention that the Third Appellant/Third Respondent in the counter filed to the writ petition had stated that the lands were inspected and they were found situated in a developed area and accordingly, submitted a report dated 22.03.2002 to the Second Respondent wherein the recommendation was made that the properties value ought to be fixed at Rs.26,16,000/- per acre. Admittedly, the recommendation was made, the Respondents/Petitioners were not provided with any opportunity to assail the report in question. In fact, the Second Appellant/Second Respondent in a self serving manner, refixed the value of the land at Rs.26,16,000/- as per proceedings No.15468/L4/2002 dated 08.04.2002.

10.It is to be borne in mind that the Deputy Inspector General of Registration's Report dated 22.03.2002 does not indicate any conclusion which was arrived at to the effect that the Respondents/Petitioners lands in question were not agricultural lands. Just because the lands in question are having the potential of being converted as house sites in future, the authorities in this regard cannot allow their imagination to run riot or to indulge in assumptions, presumptions, surmises and conjectures etc., in the considered opinion of this Court. Even the Suo Moto power as envisaged under Sub Section (3) of the Section 47(A) of the Indian Stamp Act ought to have been exercised within two years from the date of Registration of the documents. As a matter of fact, the Suo Moto power of revision should have been exercised well before 11.04.1999 not at a later point of time. As such, it is candidly clear that the impugned order dated 08.04.2002 is without jurisdiction whatsoever and resultantly, Form II notices issued were invalid and illegal in the eye of law.

11.At this juncture, at the risk of repetition, this Court pertinently points out that in the instant case on the date of registration, viz., on 11.04.1997, admittedly the lands in question are agricultural lands and only after 5 ½ years later, after the registration of the documents, the Deputy Inspector General of Registration was of the opinion that the lands were capable of being converted into house sites and made a representation for the revision of land value. Suffice it for this Court to pinpoint that in this case, no tangible materials were available before the authorities atleast to come to a tentative conclusion that the value of the property described in the sale deeds were not properly described. Apart from that, even the Suo Moto power as contemplated under Sub-Section 3 of 47 A of the Indian Stamp Act, 1899 was clearly out of bounds of the limitation period specified thereunder. Viewed in that perspective, the order of the Second Appellant dated 08.04.2002 and the subsequent confirmation order of the First Appellant/First Respondent dated 09.01.2003 are invalid and illegal by this Court. In this regard, this Court is in complete agreement with the view taken by the Learned Single Judge in quashing the aforesaid two orders and allowing the Writ Petition. Consequently, the Writ Appeal fails.

12.In the result, the Writ Appeal is dismissed but without costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Special Deputy Collector (Stamps)
   Chennai Collectorate,
   Singaravelar Maligai, Chennai

2. The Inspector General of Registration (Documents),
   Santhome High Road,
   Mylapore, Chennai

3. The Sub Registrar, Joint I,
   Nellukara Street,
   Kanchipuram - 631 502

+1cc to the Government Pleader, SR 38026

W.A.NO.987 OF 2015 AND
M.P.NO.1 OF 2015

UG (CO)
RS 14.08.2015