IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 02.02.2015

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P(NPD)No.218 of 2015

Prabavathi .. Petitioner / Plaintiff

Vs

The Joint Sub Registrar No.1,
Stuartpet,
Arakkonam and Post
Vellore District. .. Respondent / Petitioner

Prayer: Civil Revision Petition is filed under 115 of Civil Procedure Code against the order and decree dated 16.10.2014 made in E.A.No.49 of 2014 in E.P.No.30 of 2012 in O.S.No.297 of 2008 on the file of District Munsif Court, Sholinghur.

For Petitioner : Mr.A.Gouthaman

O R D E R

This revision is directed against the order dated 16.10.2014 made in E.A.No.49 of 2014 in E.P.No.30 of 2012 in O.S.No.297 of 2008 on the file of District Munsif Court, Sholinghur.

2. The petitioner is the plaintiff in O.S.No.297 of 2008 which was filed for specific performance of the sale agreement dated 02.01.1987. The suit was decreed on 28.10.2009. Based on the decree, the petitioner filed an execution petition in E.P.No.30 of 2012 for execution of the sale deed. The Executing Court has called for report from the Joint Sub Registrar, Stuartpet,, Arakonam to ascertain the market value of the suit property. The Sub Registrar submitted report stating that the land was developed as house sites and the market value of the property was Rs.1,68,000/-. Subsequently, the petitioner filed E.A.No.49 of 2014 for direction to the Joint Sub Registrar No.1, Stuartpet, Arakonnam to furnish the guideline value of the petition property as land value, considering the surrounding guideline value of the land. The Executing Court dismissed the application. Aggrieved by the order, the present revision is filed.

3. Mr.A.Gouthaman, learned counsel for the petitioner submitted that the petitioner purchased the suit property as agricultural land and in the agreement also, the land is described as agricultural land and the petitioner had purchased the property for sale consideration of Rs.3,000/- and therefore the sale deed has to be registered only as agricultural land for value shown in the sale agreement. The learned counsel further submitted that if the

document does not set forth the market value, the authorities can initiate action under Section 47A for the Stamp Act.

4. The Hon'ble Supreme Court in ***State of Haryana v. Manoj Kumar reported in 2010 (4) SCC 350*** has held that the parties have to pay the stamp duty as per the guideline value on the date of registration. The Division Bench of this Court in ***V.Sivakumar v. IG of Registration reported in 2011 (5) MLJ 30*** has held as follows -

> *15. The Honourable Supreme Court held that In a suit for specific performance, after the dispute was ultimately decided by the Supreme Court, which took long time, when the sale deed was presented before the registering authority, the registering authority would insist on payment of the stamp duty as per the prevailing guide line value on the date of the presentation of the instrument for registration. The Honourable Supreme Court has also held that the stamp duty has to be paid as per the prevailing guideline value as on the date of registration even though the agreement to convey the property entered long back. By applying that theory in this case, necessarily, the holder of the sale certificates have to pay the stamp duty as per the guide line value prevailing as on the date of presentation of the sale*

certificates. The valuation of the property on the date of auction is totally different when compared to the value of the property on the date of presentation of the sale certificates for registration, especially, in this case, as per the dates and events mentioned above, the delay was only on the part of the purchasers and therefore, they are liable to pay the stamp duty as on the date of registration of the instrument. Consequently, the registering authorities are empowered to refer the matter under Section 47A of the Indian Stamp Act for determination of the correct value of the property apart from collecting the actual stamp duty at Rs.9.30 crores being the total value of the property as stated in the sale certificates and the corresponding registration charges. Therefore, we hold that the appellants are liable to pay stamp duty on the actual value of the property apart from registration charges and the registering authority is empowered to refer the matter under Section 47A of the Indian Stamp Act for determination of the correct value of the property. Consequently, we find no reason to interfere with the reasoned order of the learned single Judge.

5. In ***2013 (7) SCC 537 [District Sub Registrar Siliguri v. Pawan Kumar Verma],*** the Hon'ble Apex Court observed as follows -

13. *Market value for the purpose of the Stamp Act, 1899 is not the same as suit valuation for the purpose of jurisdiction and court fee. The procedures are different for assessment of the stamp duty and for registration of an instrument. The reference to the expression "on the basis of any court decision after hearing the State Government" appearing in Rule 3 of the West Bengal Stamp (Prevention of Undervaluation of Instruments) Rules, 2001, .would clearly show that the suit valuation cannot be automatically followed for the purpose of registration. The learned Civil Judge has, thus, clearly erred in directing the registration to be done on the basis of suit valuation. The Sheristadar made a mechanical assessment of stamp duty on ¼th share of the suit property as per the compromise and fixed the stamp duty accordingly for Rs 12,50,000. That does not meet the requirement under law.*

14. *The Suits Valuation Act, 1887 and the Stamp Act, 1899 operate in different fields. However, going by the scheme of the Act and the Rules as amended by West Bengal, we are of the view that it will only be appropriate that in such situations where the registering authority has any difference of opinion as to assessment on the stamp duty of the instrument presented for registration on the orders of the court, it will only be appropriate that the Registrar makes a back reference to the court concerned and the court undertakes a fresh exercise after affording an opportunity of hearing to the registering authority with regard to the proper value of the instrument for registration. The registering authority cannot be compelled to follow invariably the value fixed by the court for the purpose of suit valuation.*

6. The only contention of the petitioner is that the property has to be valued as agricultural land and the petitioner has to be directed to pay the guideline value of the agricultural land. I do not agree with the contention of the learned counsel for the petitioner. In the light of the decisions referred supra, the petitioner has to pay the stamp duty for the guideline value on the date of registration of the document. Hence, I do not find any illegality or irregularity in the order of the court below.

7. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

02.02.2015

Index:Yes
Internet:Yes
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To

The District Munsif,
Sholinghur.

K.KALYANASUNDARAM,J

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Order in
C.R.P(NPD)No.218 of 2015

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