IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on :19.01.2017

Judgment Pronounced on : 03.11.2017

CORAM: THE HON'BLE Mr.JUSTICE N.SESHASAYEE

C.M.A.No.1750 of 2007
and MP.No.1 of 2007

C.S.Narasimhan
C.S.Srivathsan
C.S.Seshadri
C.S.Varadhan .. Appellants/Respondents

Vs

The Chief Controller of Revenue Authority
cum Inspector General of Registration, Tamil Nadu
100, Santhome High Road,
Chennai - 600 028. .. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 47-A(10) of the Indian Stamp Act, 1899 as amended by 2000, to set aside the order passed in proceedings bearing No.21264/E.1/2004, dated 20.12.2006 of the Chief Revenue Controlling Authority cum Inspector General of Registration, Tamil Nadu, in his proceedings taken suo-moto under Section 47-A(6) of the Indian Stamp Act.

For Appellants :Ms.M.Shalini
for Mr.S.Mothilal
For Respondent :Mr.M.Venugopal
Special Government Pleader (CS)

JUDGMENT

This appeal is preferred against the suo moto proceedings dated 20.12.2006 of the Chief Revenue Controlling Authority cum Inspector General of Registration, Tamil Nadu initiated under 47 (A) of Indian Stamp Act. On 18.10.2002, the appellants had purchased a plot admeasuring 11,210 sq.ft., in S.F.No.42/1 correlated to T.S.No.5411, 5412 and 5413 of T.Nagar Village for a total sale consideration of Rs.1,41,64,500/-. The said sale deed was registered as document No.2227/2002 of T.Nagar (South Chennai District) Registration Office. While so, the appellants were issued a notice by Chief Controlling Revenue Authority dated 12.05.2005, intimating the appellants that the guideline value at that relevant time was Rs.10,165/- per sq.ft., and required the appellants to show cause as to why stamp duty should not be demanded at that rate. The first appellant on behalf of others issued reply on 23.06.2005 & 20.11.2006, in which he has indicated that the appellants had purchased the property at Rs.5,100/- per sq.ft., that when the document was submitted for registration, the Special Deputy Collector (Stamps) required the appellants to pay stamp duty at Rs.8,135/- per sq.ft. It is also indicated in the reply that even though Rs.8,135/- per sq.ft., is not the actual value for which sale deed was obtained, yet given the urgency involved in their purchase, they paid the same. Rejecting the same, Vide impugned order dated 20.12.2006, the respondent had directed the appellants to pay stamp duty on their purchase of the property at Rs.10,165/- per sq.ft. For arriving at the conclusion that it had arrived, the respondent has relied on the report of the District Registrar, North Chennai dated 17.3.2005. During the course of the proceedings before the respondent, on behalf of the appellants their counsel appeared and a copy of the report of the District Registrar, North Chennai was served on him.

2.The learned counsel for the appellant submitted that the respondent has only made available a copy of the report of the District Registrar, North Chennai but not the various sale deeds which were relied on, or, referred to therein for forming an opinion that the property involved in the sale deed that the appellants had purchased has a market value of Rs.10,165/- per sq.ft. He submitted that the price of the land generally is disproportionate to the size of the plot and therefore, a plot with a smaller extent always likely to fetch a higher price and a plot with a larger extent may not fetch the same price. In the impugned order, this aspect of human experience which is strongly associated with conveyance of immovable property, appeared to have been lost sight of by the respondent, argued the counsel. He also argued that the location of the property is not on the Usman Road, T.Nagar, as is being projected as a nerve centre of commercial activity at that relevant point of time, but adjacent to it. Unless the sale deeds relied on in the report of the District Registrar are made available for comparison, it might not be possible to state how far or proximate the properties covered under those sale deeds are to the property purchased by the appellants, and also their comparative extent.

3. Per contra, Mr.M.Venugopal, learned Special Government Pleader (CS) argued that the property of the appellant is in prime commercial centre of the city and therefore, the conclusion of the respondent cannot be faulted. He also added that differential stamp duty is required essentially based on the guideline value and therefore, the appellants shall not take exception to that.

4. In this case, the record of the respondent have not been made available in order to ascertain what is the effective level

of opportunity that was granted to the appellant to rebut the material relied on against him. A few adjournments too were granted for that purpose but till date it was not made available.

5. This Court finds merit in the submission of the counsel for the appellants. Under Section 47-A of the Indian Stamp Act, a registering officer is granted power, shall initiate proceedings for referring the document of conveyance to the Collector for determination of the market value of the property involved in such deeds of conveyance only if he has reason to believe that the market value of the property is not correctly set forth in the document of conveyance.

6. What ultimately is required to be ascertained is whether the market value of the property is correctly stated. It is in arriving the same in the present case, the respondent has relied on the report of the District Registrar, but the copy of the said report as is made available in the typed set of papers, though discloses the various documents that formed the foundation for the report, still has not given the details such as the extent of plot, the location of the plot and the sale price stated in the said sale deed. Unless the appellants are given an adequate opportunity to putforth his case in defense to these materials, it cannot be said that they were granted an effective opportunity of hearing. It is therefore necessary that the appellants may be granted another opportunity to place their case countering the materials on which the report of the District Registrar dated 12.05.2005 was based.

7. In the result, the appeal is allowed and the suo motu proceedings of the respondent bearing No.21264/E.1/2004, dated 20.12.2006 is set aside and the matter is remanded back to the respondent, who is hereby directed to grant the appellants the adequate opportunity to putforth their case against the documents relied on by the District Registrar in his report dated 12.5.2002. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ds

To:
1.The Chief Controller of Revenue Authority
cum Inspector General of Registration, Tamil Nadu
100, Santhome High Road, Chennai - 600 028.

2.The Section Officer
VR Section
Chennai - 600 104.

+1 CC to Govt. Pleader sr 78163

C.M.A.No.1750 of 2007

NM(CO)
SP(02/01/2018)