IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.389 OF 2009

1.Abdul Barak
2.A.Sirajunnisa ... Appellants

Vs.

1.Chief Controlling Revenue Authority of Tamil Nadu cum Inspector General of Registration
Santhome High Road,
Chennai - 600 028.

2.The Special Deputy Collector (Stamps)
Cuddalore.

3.District Registrar
Chidambaram.

4.Joint Sub - Registrar - I
Chidambaram. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A(10) of the Indian Stamps Act against the order passed in No.15209/No.3/2007 dated 31.10.2008 on the file of Chief Controlling Revenue Authority Tamil Nadu cum Inspector General of Registration, Chennai - 28, in confirming the order passed in C.Pa.No.486/2006-07 dated 29.01.20017 on the file of Special Deputy Collector (Stamps) Cuddalore.

For Appellants : Mr.A.Muthukumar
For Respondents : Ms.M.Jayashree
Government Advocate (CS)

J U D G M E N T

The purchasers of the land are the appellants before this Court. The appellants registered a sale deed on 19.07.2006 bearing Registration No.2508 at the Office of the Sub Registrar, Chidambaram, valuing the property at Rs.450.86 per sq.ft. Whereas, the Sub Registrar has referred the matter to the Special Deputy Collector (Stamps) Cuddalore on the ground that the market value of the property was Rs.921/- per sq.ft., and there is deficiency in paying the stamp duty and registration charges. The second respondent Special Deputy Collector (Stamps) Cuddalore issued a show cause notice in Form - I on 12.08.2006 calling for objections for fixing the market value of the property. The appellants have submitted their objections on 28.08.2006 setting out the fact that no property was registered in the past for more than Rs.250/- per sq.ft and that they had registered the property at the prevailing market rate at Rs.450.86 per sq.ft as the property is situated in a narrow street in a residential area. Therefore, the rate fixed in the show cause notice is on the higher side.

2. The second respondent in his proceedings C.P.No.486/06-07 dated 29.01.2007 has determined the market value on the basis of the recommendation given by the Special Tahsildar (Stamps) after his inspection. The fact that no document was registered after 1994 and there was no registration for higher market value and the situation of the property at a distance of 500 feet from the road had confirmed the recommendation of the Special Tahsildar at Rs.830/- per sq.ft., and directed the appellants to remit the deficit stamp duty as well as deficit registration charges. Aggrieved over the same, the appellants preferred an appeal under Section 47-A(5) of the Indian Stamp Act, 1899.

3. The first respondent has passed the impugned order reiterating the order passed by the second respondent.

4. During the first hearing, the learned counsel for the appellants have submitted that the document registered in the year 2000 for the same Survey number revealed market value of that property at Rs.263/- per sq.ft. But the first respondent had not considered the issue and given his finding on that, but went on to re-determine the value of the property at Rs.830/- per sq.ft, as recommended by the District Registrar. Aggrieved over the order, the appellants contend that the order is illegal and arbitrary and without application of mind.

5. The learned Special Government Pleader would contend that the first respondent had considered all these points in conformity with Rule 12 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, read with Section 47-A(5) of the Indian Stamp Act, 1899 and passed a reasoned order. According to the respondents, there was an inspection conducted and on the basis of the prevailing market value only, the rate was re-determined at Rs.830/- per sq.ft, even though the value for the same was Rs.921/- per sq.ft as per the guideline register. Therefore, the order passed by the first respondent needs no interference and the appeal shall be dismissed.

6. I have heard the rival contentions and perused the materials available on record.

7. A reading of the impugned order clearly shows that it is nothing but a reproduction of the order passed by the second respondent Special Deputy Collector (Stamps) Cuddalore. It is the contention of the appellants that no documents were registered in the past few years prior to the date of registration of their property i.e., on 19.07.2006. The fourth respondent Joint Sub Registrar-I, Chidambaram, has fixed the rate as per the guideline register at Rs.13,63,540.50 at the rate of Rs.921//- per sq.ft. There is no material to show that the guideline value was fixed on the basis of the registrations made in the past. The second respondent while hearing the objections has also not recorded any reasons for fixing the market value at Rs.830/- as per the guideline value register, based on any material / document. Even though it is stated by the Joint Sub Registrar, the fourth respondent herein that the guideline register shows Rs.921/- per sq.ft., as the market value, no materials were produced during enquiry and the appellants were not given any opportunity to defend the same. Even before the first respondent, the materials regarding the guideline value were not produced.

8. It is the case of the appellants that no documents were registered after 1994 and the document which was registered in 2000 also was valued at Rs.263/- per sq.ft. In fact, they have paid a sum of Rs.450/- per sq.ft., which is on the higher side. But nothing was discussed by the authorities below and the first respondent has mechanically confirmed the order passed by the second respondent, without assigning any reasons, more particularly, when an objection was raised on the basis of a document, which was registered in the year 2000, at the rate of Rs.263/- per sq.ft.

9. Therefore, this Court has no hesitation to hold that the order passed by the first respondent is a non speaking order, without application of mind and it merely confirms the order passed by the second respondent. Therefore, the order passed by the first respondent in his Proceedings No.15209/No.3/2007 dated 31.10.2008 is set aside.

10. Further, a direction is issued to the first respondent to conduct enquiry in conformity with Rule 11-A of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, after furnishing all the materials, which is relied on by him for considering the re-determination of the value of the property. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

11. This Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

TK

To

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of Tamil Nadu cum
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Chidambaram.

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Chidambaram.

+1cc to Mr.A.Muthukumar, Advocate SR.No.81614
+1cc to Special Government Pleader(CS) SR.No.81157

C.M.A.NO.389 OF 2009

VD(CO)
GN(02/04/2018)