IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2120 of 2006
and M.P.No.1 of 2016

B.Shanthi ... Appellant

Vs.

1.The Chief Controlling Revenue Authority &
Inspector General of Registration,
Chennai.

2.The District Revenue Officer (Stamps),
Coimbatore.

3.The Sub Registrar of Peelamedu,
Office of the Sub Registrar,
Peelamedu, Coimbatore. ... Respondents

Prayer : Civil Miscellaneous Appeal filed Section 47-A(10) of the Indian Stamps Act, 1899, read with Rule 9(5)(a) of the Prevention of under Valuation of Instruments Rules 1968, against the order of the Chief Controlling Revenue Authority and Inspector General of Registration, Chennai, dated 08.08.2005 in Proceedings No.61860/N2/2004 modifying and enhancing the market value fixed by the District Revenue Officer (Stamps), Coimbatore in his order dated 09.01.2004 in Mu.Pa.No.4591/C/03.

For Appellant : Mr.N.E.A.Dinesh

For Respondents : Mr.M.Venugopal,
Special Government Pleader (C.S)

J U D G M E N T

Aggrieved over the revision made by the first respondent/Chief Controlling Revenue Authority and Inspector General of Registration, the appellant has come before this Court.

2. The case of the appellant is that she purchased an agricultural land falling within the Registration District of Coimbatore and Sub Registration of Peelamedu. By virtue of registered document number 1764/2003, they valued the property at the rate of Rs.23,50,000/- per acre. The Sub Registrar has referred the document for valuation under Section 47-A of the

Indian Stamps Act, 1899. The District Revenue Officer, on inspection, has found it to be an agricultural land, wherein maize had been cultivated. But finding the extensive development of the surrounding areas, he fixed the rate on the basis of guideline value per sq.ft. The guideline value in surrounding area, was Rs.446/- per sq.ft. Considering the non-availability of water source and that the cultivation is being done with the help of rain water, he fixed the value at Rs.310/- per sq.ft, and Rs.54,06,400/- per acre. The District Revenue Officer had fixed a sum of Rs.7,02,832/- and directed the appellant to pay a sum of Rs.5,80,632/-, after deducting a sum of Rs.1,22,200/-, which was already paid during the registration.

3. Aggrieved over the order passed by the District Revenue Officer (Stamps), the appellant filed an appeal to the first respondent and the first respondent has passed the impugned order revising the stamp duty from Rs.310/- to Rs.446/- as per the guideline value existing during the relevant point of time. The first respondent has considered that the property, which is said to be purchased is not a regular agricultural land and cultivation was made with the aid of rain water. Therefore, they considered it as a house site rather than an agricultural land and in support of his finding stated that the land, which is situated in Corporation limit, is surrounded by commercial building, layout and houses, and fixed the stamp duty as found in the guideline value at Rs.446/- per sq.ft.

4. The learned counsel appearing for the appellant contested that the value should have been fixed on the basis of the actual classification of the lands and it could not be fixed on future development. In support of his contention, he would rely on the judgment of this Court reported in 2013 (6) CTC 295, S.Sivasubramaniam Vs. Chief Controlling Revenue Authority-cum-Inspector General of Registration and others.

5. Secondly, he argued that when the appellant has filed an appeal aggrieved over the valuation determined by the District Revenue Officer/2nd respondent herein, as excessive, the first respondent has suo-motu enhanced the market value without any valid reason. Eventhough, the petitioner has relied on the certificate issued by the Village Administrative Officer accompanying with adangal extracts, chitta and other documents, the first respondent, without any reasons, has arrived at a higher rate of market value to the property purchased.

6. The learned counsel appearing for the appellant vehemently argued that while, enhancing the value, suo-motu, the first respondent should have arrived at subjective satisfaction of the same and should have indicated in the order by adducing proper reasons, whereas, he presumed that in future, the value of the land would go up in view of the

development made in the surrounding areas and fixed a higher market value on the basis of the guideline, which is available for commercial layouts and it is liable to be set aside, as found by this Court in the judgment reported in 2012 (3) CTC 589 (Rajendran Vs. The Inspector General of Registration and others).

7. He would also contest that for arriving at the market value of agricultural land, he has not relied on any other document and fixing the market value, by taking into consideration, the guideline value is illegal and without any basis, as found by this Court in the judgment reported in 2010 (6) CTC 567, Asmathullah Khan Vs. The Chief Controlling Revenue Authority-cum-Inspector General of Registration and others, and 2010 (6) CTC 35, K.K.Flats (P) Ltd. Vs. The Inspector General of Registration and another. The learned counsel would also rely on the judgment of the Hon'ble Supreme Court reported in 2012 (3) MLJ 714, that when the property is presented for registration, the classification of the land on the date of registration shall be taken into consideration and the authority cannot presume that it will be developed in future and the stamp duty as per the future development is not sustainable and bad.

8. Considering the arguments advanced by both the parties, this Court is of the opinion that the finding of the first respondent is bad. When the 2nd respondent has inspected the property and has found it to be an agricultural land, it is the bounden duty of the registering authority to adopt the value, which is prevailing for the agricultural land. The guideline value indicated for the layout and house sites has been adopted for an agricultural land, if such a course is adopted, it would be opposed to the purpose for which the Act has been enacted and contrary to the principles laid down by the Hon'ble Supreme Court and various High Courts. Therefore, it is crystal clear that future development could not be the criterion for fixing the market value of the land. The authority shall fix on the basis of the actual classification of the lands and it could not be fixed based on future development.

9. The authority is expected to follow the mandatory requirements under Rule 11-A of Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968, which reads as under:-

> 11-A. Decision of the appellate authority. - The appellate authority may, for the purpose of deciding an appeal,-
>
> (a) call for any, information or record from any public office, officer or authority under the Government or any local authority;
>
> (b) examine and record statements from any member of the public officer of authority under the Government or the local authority; and

(c) inspect the property after due notice to the parties concerned.

But, in the case on hand, the authority has also not followed the mandatory requirements under this Rule.

10. In the instant case, there is a clear finding by the 2nd respondent that the property is an agricultural land and there is cultivation of maize in the property. In such circumstances, the value should have been arrived at treating the property as agricultural land and not as layout and the authority should have decided the market value on the basis of guideline rate available for agricultural land. More so, the first respondent ought not have enhanced the market value on the basis of guideline value, inspite of available of documents, such as, adangal extracts, chitta and certificate of the Village Administrative Officer. There is no evidence in the impugned order, as to spot inspection and classification of the property. In the absence of any evidence, the market value arrived at by the first respondent is bad and not sustainable.

11. In view of the above, the order dated 08.08.2005 passed by the Chief Controlling Revenue Authority and Inspector General of Registration, Chennai/first respondent is set aside and remitted back for fresh consideration as per Rule 11-A of the Rules mentioned supra.

12. In view of the order, the first respondent is directed to dispose of the appeal on merits, after considering available documents submitted by the appellant, within a period of three months from the date of receipt of a copy of this order.

13. Accordingly, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To
1.The Chief Controlling Revenue Authority &
Inspector General of Registration, Chennai.

2.The District Revenue Officer (Stamps),
Coimbatore.

+1cc to Mr.V.Nicholas, Advocate SR.NO.73288
+1cc to Special Government Pleader SR.No.73524

C.M.A.No.2120 of 2006
and M.P.No.1 of 2016

sm:2.1.2018