IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA.No.3645 of 2013
and MP No.1 of 2013

Mrs.C.Vasantha ...Appellant

Vs

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

2. District Revenue Officer (Stamps)
Coimbatore.

3. Joint Sub-Registrar-II,
Gobichettipalayam. ... Respondents

This appeal is filed under Sub-Section (10) of Section 47-A of the Indian Stamp Act, 1899, against the proceedings of the Chief Controlling Revenue Authority cum Inspector General of Registration, Santhome High Road, Chennai 600 028 in Pa.Mu.No.15030/N2/2010, dated 29.11.2012 in confirming the proceedings of the District Revenue Officer (Stamps), Coimbatore in Mu.Pa.No.977 of 09 dated 11.01.2010.

For Appellant : Mr.N.Damodaran
For Respondents : Mr.M.Venugopal
Special Govt. Pleader (C.S.)

J U D G E M E N T

This appeal has been filed challenging the order dated 29.11.2012, of the Chief Controlling Revenue Authority cum Inspector General of Registration, in an appeal filed under Section 47-A (5) of the Indian Stamp Act, 1899. The appellant had purchased an extent of about 2 acres and 78¾ cents of agricultural land in Survey Nos.1244/1A, 1244/2A, and 1243/1 of Coogalur Village of Gobichettipalayam Town under a sale deed dated 10.06.2009. The total consideration reflected in the document was Rs.10,00,000/-. In Annexure -1A, the value of the land is shown as Rs.8,36,250/- and the Farm House, the Bore wells and the Motor etc were valued separately making the total consideration of Rs.10,00,000/-.

2. Claiming that the value reflected in the document is not the true market value, the Sub Registrar referred the matter under Section 47-A to the 2nd respondent, namely the District Revenue Officer (Stamps), Coimbatore, there upon, the said Officer issued a notice in Form I on 21.08.2009. A reply was sent by the appellant on 01.09.2009. The primary contention of the appellant in the said reply was that the lands are being used as agricultural lands and the same will have to the valued as agricultural lands only and not as house sites. Not satisfied with the reply, the 2nd respondent issued Form II notice on 11.01.2010 along with provisional order under Rule 6 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. In the provisional order also, the same contention was reiterated. The appellant submitted her explanation to the said provisional order on 19.01.2010. In the said explanation also, it was the claim that the land was used as agricultural lands and the Revenue Records namely patta, chitta and adangal produced would show that the lands are used for agricultural purpose. The second respondent, however, passed a final order on 11.02.2010, fixing the value of the properties sold under the sale deed at Rs.50,03,400/- and required the claimant to pay a sum of Rs.3,20,272/- as deficit Stamp Duty. Aggrieved, the appellant preferred an appeal before the Appellate Authority namely the 1st respondent.

3. The 1st respondent by order dated 29.11.2012, dismissed the appeal confirming the order of the 2nd respondent. Aggrieved the appellant has come forward with this appeal under Sub-section 10 of Section 47-A of the Indian Stamp Act.

4. Mr.N.Damodaran, learned counsel appearing for the appellant would contend that the entire proceedings of the authorities are vitiated by non-compliance of the time frame fixed under Rule 7 of the Rules, namely the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, Rule 7 of the said Rules reads as follows:

7. Final order determining the market value:-

> (1) The Collector shall, after considering the representations received in writing and those urged at the time of hearing or in the absence of any representation from the parties concerned or their failure to appear in person at the time of hearing in any case after careful consideration of all the relevant factors and evidence available with him pass an order within three months from the date of first notice determining the market value of the properties and the duty payable on the instrument, and

communicate the order so passed to the parties and take steps to collect the difference in the amount of stamp duty, if any.

(2) A copy of the order shall be communicated to the registering officer concerned for his record.

(3) The difference in the amount of duty determined by the Collector shall be paid within two months from the date of final order passed under Sub-section (2) or sub-section (3) of section 47-A.

(4) The Collector shall, after collecting the difference in amount of stamp duty and interest, if any, under section 47-A, give a certificate in Form III by endorsement on the instrument.

5. Mr.N.Damodaran, the learned counsel appearing for the appellant would further contend that the Form I notice was issued on 21.08.2009 and therefore the final order should have been passed on or before 21.11.2009. Admittedly, the final order was passed by the 2nd respondent only on 11.02.2010, which is beyond the period prescribed under Rule 7 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. Therefore, according to the learned counsel, the entire proceedings are vitiated by non-compliance of the time frame fixed under Rule 7 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. The learned counsel would also further contend that once it is established that the lands the subject matter conveyance, have been used only as agricultural lands' the authorities are not justified in valuing the same as house site.

6. In fact, I find that even in the impugned order the respondents have accepted that the lands in question that have been used as agricultural lands. Merely because certain other lands in the vicinity have been converted into house sites, the same value cannot be fixed for the agricultural lands that are subject matter of conveyance, more so when they are admittedly used as agricultural lands. However, I do not think I should go into the merits, in view of the fact that the time prescribed under Rule 7 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, has been breached by the respondents.

7. Mr.M.Venugopal, the learned Special Government Pleader would however, contend that the delay is only an administrative delay, and therefore, the same cannot vitiate the entire proceedings.

8. I am unable to agree with the said contention of the learned Special Government Pleader. In Vijayalakshmi v. Chief Controlling Revenue Authority cum Inspector Genral of Registration, reported in 2012 (3) LW 27, Hon'ble Mr.Justice B.Rajendran, has held that the non compliance with the time frame stipulated under Rule 7 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, would vitiate the entire proceedings. I have also followed the said judgment in other cases. The 1st respondent has not adverted to the above question of the breach of the three month period prescribed under Rule 7 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. Hence, I am of the considered opinion that the entire proceedings of the authorities initiated under Section 47-A ofthe said Act, are vitiated due to non compliance of the time frame fixed under Rule 7 of the said Rules.

9. In view of the above the appeal is allowed and the impugned orders of the authorities below are set aside. Mr.N.Damodaran, learned counsel appearing for the appellant would submit that the sale deeds have not been returned. There will be a direction to the authorities to return the sale deed after complying with the registration formalities, if any forthwith. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

jv

To

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

2. The District Revenue Officer (Stamps)
   Coimbatore.

3. The Joint Sub-Registrar-II,
   Gobichettipalayam.

4. The Section Officer,
   V.R.Section,
   High Court, Madras.

+1 CC to Mr.M. Damodaran, Advocate sr 59135.
+1 Cc to Spl. Govt. Pleader sr 60174.

CMA.No.3645 of 2013
and MP No.1 of 2013

EV(CO)
sp(19/09/2017)