BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.307 of 2017
and
C.M.P.(MD)No.3624 of 2017

Mr.V.R.Muthu & Brothers,
Rep.by its Partner Sri R.Satyam ... Appellant

Vs.

1. The Tamilnadu Chief Revenue Control Officer & Registrar General of Registration, Office of the Registrar General of Registration, Santhome High Road, Chennai- 600 028.

2. The Special Deputy Collector [Stamps] Office of the Special Deputy Collector [Stamps], District Collectorate, Virudhunagar. ... Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 47(A) (10) of Indian Stamp Act 1899, to set side the order passed by the 1st respondent in Pa.Mu.No.22247/N4/2014 dated 17.06.2015.

For Appellant : Mr.S.Raja Jeya Chandra Paul

For R-1 & R-2 : Mr.R.Velmurugan,
Government Advocate

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant against the order passed by the first respondent in Pa.Mu.No.22247/N4/2014, dated 17.06.2015.

2. The case of the appellant is that they have purchased the land in Survey No.303/1B measuring 1 Acre and 37 cents on 28.03.2013 and they have purchased the said land for a sum of Rs.1,10,000/- per acre and thereafter, the second respondent has passed an order enhancing the value of the property in R.S.No.303/1 Ayyanreddiapatti falling within the Aruppukottai Sub-registration District at Rs.6,00,243/- and asked the appellant to pay the stamp duty. Against which, the appellant preferred an

appeal and in the said appeal, the first respondent confirmed the order of the second respondent and determined the value of the land at Rs.6,00,243/-.

3. Aggrieved over the order passed by the first respondent, dated 17.06.2015, the appellant has filed this present appeal.

4. The learned counsel appearing for the appellant would draw the attention of this Court to page Nos.1 and 2 of the additional typed set of papers and submitted that the guideline value of the properties in Survey Nos.303/1A, 303/1B, 303, 2A, 303/2B at Ayyanreddiapatti at Aruppukottai Taluk, Virudhunagar District, was fixed at Rs.40,000/- per sq. ft/Acre from 01.08.2007 to 31.03.2012. But, thereafter, the guideline value of the properties in Survey Nos.303/1A, 303/1B, 303, 2A was fixed at Rs.50,000/-Acre and a sum of Rs.10,00,000/- was fixed for the property in Survey No.303/2B, from 01.04.2012 onwards and based on the same, the first respondent also without considering that the land in question is not situated near the road side, fixed the value of the Property in Survey No.303/1 and asked the appellant to pay the difference in stamp duty. He further submitted that without considering the values of the adjacent properties in accordance with Section 5 of the Tamil Nadu Stamp (Prevention of Under Valuation of Instruments) Rules, 1968, the first respondent fixed the land value and therefore, the order passed by the first respondent is liable to be set aside and this Civil Miscellaneous Appeal is to be allowed. In support of his submissions, the learned counsel appearing for the appellant would rely on the judgment passed by this Court in C.M.A(MD)Nos.1019 and 1020 of 2009, dated 28.11.2014,

5. The second respondent filed a counter affidavit on behalf of her and on behalf of the second respondent stating that the appellant purchased 1.37 acres of land in Survey No.303/1 in Ayanreddiyapatti Village and the guideline value for the adjacent land in Survey No.302/2B is fixed as Rs.10,00,000/- and therefore, the Sub-Registrar, Aruppukkottai fixed the guideline value as Rs.10,00,304/- per acre. Since the appellant objected the same, the matter was referred to the second respondent to determine the correct value of the property. Thereafter, the second respondent after thorough enquiry and after inspecting the property along with the appellant on 17.12.2013 had reduced the guideline value from Rs.10,00,304/- per acre to Rs.6,00,243/- per acre and asked the appellant to pay Rs.47,010/- as stamp duty and the first respondent has also confirmed the order passed by the second respondent and therefore, there is no infirmity in the order passed by the first respondent and this appeal is liable to be dismissed.

6. Heard the submissions made on either side and perused the

materials available on record and perused the judgment passed by this Court in C.M.A(MD)Nos.1019 and 1020 of 2009.

7. The only question to be decided is as to whether the Authority was right in fixing the value of the property without considering the value of the adjacent property as per Rule 5 of the Tamil Nadu Stamp (Prevention of Under Valuation of Instruments) Rules, 1968, for which, it is useful to extract the judgment passed in C.M.A(MD)Nos.1019 and 1020 of 2009, dated 28.11.2014, wherein in similar circumstances, this Court has allowed the appeal filed by the purchaser and the relevant portion of the said judgment is extracted hereunder:

"15.The question is without even considering the guideline value, which is the value that is utilised by the Registering Authority, to determine the value of stamps to be purchased, how the first respondent fixed the value at Rs.5,00,000/- per acre is the question to be answered by other side. No date sale deed has been relied upon. No other document has been referred to for the purpose of fixing the value at Rs.5,00,000/- per acre.

..... 18. Contending that the onus with regard to establishment of market value of the property is only on the department, the decision reported in 2011 (1) MLJ 1240 (KK Flats (P) Ltd., v. Inspector General of Registration), is relied upon. In the said decision, the following dictum have been laid down:

(i) The intended use of the land in future cannot be the basis for adopting the value of the land.

(ii) The onus of proving the allegation that the value of the land has not been truly set forth in the instrument or not truly disclosed in the instrument is upon the authorities claiming so.

(iii) The Registering Authority is required to possess prima facie materials to form an opinion as to the market value not being truly set forth in the instrument for invocation of proceedings under Section 47-A of the Indian Stamp Act, 1899.

.... 34.1. In other words, there must be cogent reasons or convincing reasons or a fair reason for believing that the value mentioned in the document is not truly set forth. If not, the reference under Section 47-A is without jurisdiction. The authorities have not discharged their function in accordance with

the procedure prescribed. As contended by the learned counsel for the appellant, there had been procedural violations in arriving at the conclusion and, therefore, the reference under Section 47-A itself is without jurisdiction and it is liable to be interfered with."

8. The aforesaid judgment is squarely applicable to present case. Perusal of the records shows that the first respondent without considering the values of the adjacent properties in accordance with Section 5 of the Tamil Nadu Stamp (Prevention of Under Valuation of Instruments) Rules, 1968, fixed the land value and passed the present impugned order and therefore, the same is liable to be set aside.

9. In the result, this Civil Miscellaneous Appeal is allowed and the order passed by the first respondent dated 17.06.2015 in pa.Mu.No.22247/N4/2014, is hereby set aside. The respondents are directed to return the document to the appellant forthwith. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To,

1. The Tamilnadu Chief Revenue Control Officer &
   Registrar General of Registration,
   Office of tehe Registrar General of Registration,
   Santhome High Road, Chennai- 600 028

2. The Special Deputy Collector [Stamps]
   Office of the Special Deputy Collector [Stamps],
   District Collectorate, Virudhunagar.

Copy to:
The Record Keeper,Vernacular Section,
Madurai Bench of Madras High Court,Madurai.

+ 1 cc TO Mr.S.Raja Jeya Chandra Paul , Advocate in SR No. 76981
+1cc to The Special Government Pleader in SR.No.76848

pm
AE/SV MMS/SAR4/24.10.2017/4P/6C

C.M.A(MD)No.307 of 2017
06.09.2017