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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On: 20.09.2017

Pronounced On: 04.12.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A.(MD)No.887 of 2016
and
C.M.P.(MD).No.8153 of 2016

Muthiah Joseph Antony ... Appellant/Petitioner

Vs.

1.The Chief Controlling Revenue Authority Cum
Inspector General of Registration,
Office of the Inspector General of Registration,
No-100, Santhome High Road,
Chennai-28.

2.The Special Deputy Collector of Stamps Nagercoil,
Office of the Deputy Collector of Stamps,
Thirunelveli.

3.The Sub Register,
Thiruvattar Sub Register Office,
Kanyakumari District. ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 47(A)(10) of the Indian Stamp Act, 1899, against the order passed by the 1st respondent on 24.07.2015 and communicated to the Appellant on 07.08.2015 in ப.மு.எண்.3026/N5/2014, dated 24.07.2015 and order to return document No.2402/2010 of Thiruvattar Sub Registrar Office to the appellant.

For Appellant : Mr.C.Godwin
For Respondents : Mr.R.Velmurugan
Government Advocate

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the appellant against the order passed by the 1st respondent on 24.07.2015 and communicated to the Appellant on 07.08.2015 in ப.மு.எண்.3026/N5/2014.

2. The brief facts of the case is as follows:

The appellant would aver among other things that he purchased certain lands along with standing trees in S.No.531/1A for a sale consideration of Rs.20,00,000/- (Rupees Twenty Lakhs Only) in

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the year 2010. On registration, the third respondent has not released the document in question and sent a letter to the second respondent for fixing the correct value of the stamp duty for the property in question, who in turn, sent a letter to the appellant stating that the stamp value for the property in question is Rs.4,37,120/-. It is alleged that, again, on 29.07.2012, without any basis, a demand was made by the 2nd respondent to pay a sum of Rs.8,42,207/- towards stamp duty. Eventually, after some correspondence between the appellant and the respondents, on 31.10.2012, an order was sent to the appellant by the second respondent fixing the stamp duty as Rs.7,22,260/-. Against the said order of the second respondent, the appellant filed an appeal before the first respondent, who in turn, appointed the District Registrar, Marthandam, to inspect the spot and give a report to him. Thereafter, the first respondent sent his order fixing the value of the property per acre is Rs.5,66,000/-. Challenging the said action of the first respondent, the appellant is before this Court by way of the present Civil Miscellaneous Appeal.

3. Learned counsel for the appellant submits that the first respondent has not followed the due procedure of law and he has not taken into account the guideline value properly. Added further, the 1st and 2nd respondents have failed to fix the value as per the correct guide line value prevailing upon after the execution of the document in question. Hence, he prays for setting aside the order of the impugned order, which is challenged in this Civil Miscellaneous Appeal.

4. Per contra, learned Government Advocate for the respondents through his counter affidavit submits that since the respondents felt that the property in question is undervalued, a proper enquiry was conducted and accordingly, the stamp duty was demanded by the respondents. Hence, the impugned order holds good in all respects and prayed for dismissal of this Civil Miscellaneous Appeal.

5. Heard the learned counsel appearing for the respective parties and perused the materials available on record.

6. Though very many contentions have been raised by the appellant in the affidavit filed in support of this Civil Miscellaneous Appeal, the short point to be decided is, whether the fixing of the stamp value by the first respondent can be justified or not? In this connection, it has been stated in paragraph 8 of the counter affidavit filed by the third respondent that 50 cents of land was registered fixing the market value as Rs.4,00,000/- on 16.01.2006 in Document No.105/06 and another 50 cents was sold for Rs.4,00,000/- and accordingly, one acre has been sold for Rs.8,00,000/-. The guideline value adopted in the above transaction was not accepted by the Sub Registrar. So, the matter was referred to Samadhana Scheme, wherein, the document was accepted for Rs.10,00,000/- and the same was also finalised. According to the

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third respondent, even in the year 2006, the guideline value was fixed at Rs.10,00,000/- per acre and therefore, the guideline value fixed for the appellant property need not be interfered with.

7.From the afore-said counter affidavit, it is seen that the guide line value for S.No.531/1 was fixed at Rs.10,00,000/- per acre in the year 2006 through the Samadhana Scheme. In the case on hand, it is an admitted fact the appellant's Survey number is an adjacent land and the survey number is 531/1A and it is also an admitted fact that the appellant purchased the land in question through deed number 2402/2010 in the year 2010. Four years have elapsed since the date of purchase of the land in question by the appellant and at this stage, the appellant cannot make hue and cry that without any basis, the first respondent has passed the impugned order, when, admittedly, he considered the nature of the property and proximity of the property and fixed the value of the property in question as per Section 47(A)(5) of the Indian Stamp Act. When the guideline value is fixed by the respondents as early as in the year 2010 itself, the appellant cannot assail the guideline value, after a period of four years from the date of fixing the guideline value of the property in question. The said amount is also arrived at an Samadhana Scheme framed by the Government. It is common knowledge that the value of the property increases day by day and the government has a right to fix the guideline value after taking note of the various features that are prevailing upon at that point of time. Here, the appellant has purchased more than 11 acres along with rubber trees for a paltry consideration of Rs.20,00,000/-, when admittedly, the value of per acre is Rs.10,00,000/- in the year 2006 itself. On the face of it, it can be assumed that the property is undervalued. In fact, the appellant is demanding stamp value as per 2006 guideline value only, which should have been paid by this appellant long back. Therefore, the attitude of the appellant is nothing but to procrastinate the proceedings without paying the legitimate amount to the respondents.

8.In the light of the above, I find no infirmity or illegality in the order impugned in this Civil Miscellaneous Appeal and the same stand confirmed. Since more than eight years gave gone by from the date of purchasing the property in question, the appellant is directed to pay the amount, as per the impugned order dated 24.07.2015, within a period of four weeks from the date of receipt of a copy of this order, failing which, the respondents are at liberty to proceed against the property as per law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

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Sub Assistant Registrar

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To

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Thiruvattat Sub Register Office,
Kanyakumari District.

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

+1CC to Mr.C.Godwin, Advocate, SR.No. 91174
+1CC to the Special Government Pleader SR.No.90909

order made in
C.M.A.(MD)No.887 of 2016
04.12.2017

ssm
AM/JC/SAR 1/29.01.2018/4P/8C

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