BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.08.2017
CORAM
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No. 1810 of 2013
and
M.P.(MD)No.2 of 2013

S.Vellaichamy ... Appellant/Petitioner

Vs.

1. The chief Controlling Revenue Authority of
   Tamilnadu cum Inspector General of Registration,
   No.120, Santhome High School,
   Chennai - 600 028.

2. The Special Deputy Collector (Stamps),
   Tirunelveli District.

3. The Sub Registrar,
   Sankarankovil,
   Tirunelveli District. ... Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 47 A of Indian Stamp Act r/w Rule 9 (5) (a) of Tamil Nadu Prevention of Under Valuation of Instrument Rules, to set aside the order of the first respondent with regard to assessment of stamp duty to the petitioner's building alone in PA.MU.No.53787/N5/2006 dated 25.08.2011 by confirming the order of the second respondent in MU.SA.X2/8924/01 dated 31.07.2006.

For Appellant : Mr.S.R.Srinivasan
For R1 to R3 : Mr.R.Velmurugan
Government Advocate

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the order of the first respondent. The only grievance of the petitioner is that the first respondent has passed the order in violation of Rule 5 (c) of the Tamil Nadu Stamp (Prevention of Under Valuation of Instrument) Rules, 1968.

2.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3.For better appreciation, Rule 5 (c) of the Tamil Nadu Stamp (Prevention of Under Valuation of Instrument) Rules, 1968, is extracted below:-

"**Principles for determination of market value:**

The Collector shall, as far as possible, have also regard to the following points in arriving at the provisional market value:-

(c) In the case of buildings:-

(I) type and structure;
(II) locality in which constructed;
(III) plinth area;
(IV) year of construction;
(V) kind of materials used;
(VI) rate of depreciation;
(VII) fluctuation in rates;
(VIII) any other features that have bearing on the value;
(IX) property tax with reference to taxation records of local authority concerned;
(X) the purpose for which the building is being used and the income, if any, by way of rent per annum secured on the building; and
(XI) any special feature of the case represented by the parties."

4.It is very clear that for fixing the market value of the building, the aforesaid procedure has to be followed, but in this case, such procedure has not been followed and the market value has been fixed only on presumption and it is also the grievance of the petitioner that the market value has to be fixed only for 30 sq.meter at the time of the sale deed, which has not been followed.

5.The learned Government Advocate appearing for the respondents would submit that it is for the authorities to decide the matter and it can be only done by remanding the matter to the concerned authority.

6.The learned counsel for the appellant/ petitioner would submit that he has no objection for remanding the matter to the concerned authority.

7.Considering the submission made by both sides, this Civil Miscellaneous Petition is allowed by setting aside the impugned order of the first respondent dated 25.08.2011 and the matter is remanded back to the authorities for fresh adjudication, after giving opportunities to the parties concerned and the market value shall be fixed by following the procedure contemplated under Rule 5(c) of the Tamil Nadu Stamp (Prevention of Under Valuation of Instrument) Rules, 1968, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To,

1. The chief Controlling Revenue Authority of
   Tamilnadu cum Inspector General of Registration,
   No.120, Santhome High School,
   Chennai - 600 028.

2. The Special Deputy Collector (Stamps),
   Tirunelveli District.

3. The Sub Registrar,
   Sankarankovil,
   Tirunelveli District.

+1cc to Mr.S.Sukumar, Advocate Sr.No.75206
+1cc to Spl.Government Pleader Sr.No.75040

RJ2

VB/MR/KKR/SAR1/25/09/2017/3P/6C

C.M.A(MD)No. 1810 of 2013
and
M.P.(MD)No.2 of 2013

28.08.2017