

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP. No.5695 of 2011

ORDER :

This Civil Revision Petition is filed challenging the order dt.12.07.2011 in CMA No.3 of 2008 of the Senior Civil Judge, Rajam confirming the order passed by the respondent on 29.09.2007 vide order No.47-A/731/2005/G-5 under Section 47-A of the Indian Stamp Act, 1899 (for short 'the Act').

2. Petitioner herein had purchased Acre 0-27½ cents of dry land with 200 teak plants aged 3 years in survey No.116/4 of Ponuguntivalasa village from her vendor and presented the said document for registration before the Sub-Registrar, Rajam. Petitioner contended that the market value of the said property would be Rs.50,000/- (Rs.1,00,000/- per acre).

3. The Sub-Registrar, Rajam however referred to the respondent.

4. The respondent(The District Registrar) passed order on 29.09.2007 holding that the petitioner should pay an amount of Rs.5,77,500/-. This order was passed assessing market value at Rs.21,000/- per cent, in contrast to the petitioner's assessment that it would be Rs.50,000/- (Rs.1,00,000/- per acre).

5. This was questioned by the petitioner before the Senior Civil Judge, Rajam in CMA No.3 of 2008.

6. Before the Senior Civil Judge also petitioner contended that the assessment of market value by the respondent is not correct and that he need not pay the excess stamp duty as demanded by the respondent. It was also contended that the procedure prescribed under Section 47-A of the Act as well as the A.P. Stamp (Prevention of Under-Valuation of Instruments) Rules, 1975 (for short 'the Rules') was not complied with by the respondent.

7. Though the learned Senior Civil Judge referred to several judgments of this Court while confirming the order of market value arrived at by the respondent at Rs.21,000/- per cent, no material evidence was adduced before the Senior Civil Judge by the respondents in support of the said plea. The Court however rejected the contention of the petitioner that guesswork cannot be the basis for fixing the market value and opined that on the basis of location, extent and facilities, etc., the amount of Rs.21,000/- per cent fixed as market value by the respondent, is proper.

8. Assailing the said order, this Civil Revision Petition is filed.

9. Counsel for the petitioner contended that a decision on determination of market value should be based on objective material, that evidence of existing market value as pleaded by the respondents should be supported by either oral or documentary evidence, and in the absence of any such evidence placed on record by the respondents before the Senior Civil Judge, the learned Judge ought not to have confirmed the decision of the respondent. He also contended that the procedure prescribed under Section 47-A of the Act as well as the Rules referred to

supra have not been followed and that this has resulted in an arbitrary assessment of market value by the respondents.

10. Though the learned Government Pleader for Arbitration sought to sustain the order passed by the Senior Civil Judge, he did not dispute the fact that *neither* the respondent considered any evidence, either oral or documentary, to arrive at a finding that the market value of the subject land is Rs.5,77,500/- (@ Rs.21,000/- per cent) *nor* was any such evidence placed before the Senior Civil Judge by the respondent in support of his contention that the market value of the land would be Rs.21,000/- per cent.

11. It is not in dispute that an enquiry is contemplated under Section 47-A of the Act by the respondent in the manner prescribed under the above referred rules.

12. Sub-Rules 3 and 4 of Rule 4 of the A.P. Stamp (Prevention of Under-Valuation of Instruments) Rules, 1975 states as follows:

“Rule 4. ***Procedure on receipt of a reference under sub-section (1) of Section 47-A:***

- 1)
- 2)
- 3) *The Collector may for the purpose of his enquiry-*
 - a. *call for any information or record a statement from any public office; an officer or authority under the Government or any local authority.*
 - b. *examine and record statements from any member of the public, an officer or authority under the government or the local authority; and*
 - c. *inspect the property after due notice to the parties concerned.*
- 4) *After considering the representation, if any, received from the person to whom notice under sub-rule(1) has been issued, and after examining the records and evidence, before him, the Collector*

shall pass an order in writing provisionally determining the 'market value' of the properties or the consideration and the duty payable. The basis on which the provisional market value or consideration was determined shall be clearly indicated in the order."

13. In ***District Registrar and Collector, Visakhapatnam vs. Varun Vehicles (P) Ltd.***¹ this Court has held that the District Registrar has to follow the statutory mandate of Rule 4, which is an embodiment of the Principles of Natural Justice in fixing the market value of the property.

14. Also rule 5 of the above Rules prescribes the principles to be taken into account for determination of market value.

15. Since the order passed by the respondent does not conform to the statutory rules and the determination of the market value by the respondent as confirmed by the Senior Civil Judge, Rajam does not appear to be based on any objective material, both the orders cannot be sustained.

16. Therefore, this Civil Revision Petition is allowed; both, the order of the respondent dt.29.09.2007, as well as the order dt.12.07.2011 of the Senior Civil Judge, Rajam in CMA No.3 of 2008 are set aside; and the matter is remitted back to the respondent to reconsider the issue of determination of market value in strict compliance with the provisions of Section 47-A of the Act and the above referred Rules. He shall give opportunity to the petitioner also to adduce evidence, and shall then pass a reasoned order in accordance with law and communicate the same to the petitioner. This exercise shall be completed within a period

¹ 2006(6) ALD 825

of eight (08) weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

17. Consequently, miscellaneous petitions pending, if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

22nd February, 2017.

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