IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.2827 of 2017

T.Kannaki .. Appellant

Vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2. The Special Deputy Collector,
(Stamps),
Coimbatore.

3. The Joint Sub-Registrar,
Erode. .. Respondents

Prayer : Civil Miscellaneous Appeal is filed under Section 47 of the Indian Stamp Act, against the NPW passed in PAMU No.4132A/N2/2013, dated 25.09.2014, on the file of the Inspector General of Registration, Chennai-600 028, in confirming the order passed in MUPA No.554/97 dated 07.04.2000 on the file of the Special Deputy Collector Stamps, Coimbatore.

For Appellant : Mr.P.Muthukrishnan,
for Mr.V.Kadhirvel

For Respondents : Mr.T.M.Pappiah
Special Government Pleader(CS)

JUDGMENT

This appeal is filed against the order dated 25.09.2014 passed by the Chief Controller of Revenue cum Inspector General of Registration under Section 47(A) of the Indian Stamps Act, wherein he has directed the appellant to pay stamp duty on the value of the property which the 1st respondent has fixed at Rs.39/- per sq.ft.

2. The brief facts are: On 27.01.1997, the appellant had purchased 1.34 ½ acres of land in S.No.493/2 of Kasipalayam Village, Erode District. The sale consideration stated in the

sale deed was Rs.75,092/- per acre. The Collector of Stamps had issued a notice under Form-1 under Section 47(A) of the Stamps Act. But, it appeared that the appellant had not responded to the same. Thereafter, a notice in Form-2 dated 05.03.1997 was served on the appellant, requiring her to pay the deficit stamp duty payable on the market value of the property determined at Rs.49/- per sq.ft. This was challenged by the appellant before the 1st respondent / Chief Controller of Revenue cum Inspector General of Registration. In the impugned order, he has reduced the market value from Rs.49/- per sq.ft to Rs.39/- per sq.ft.

3. The learned counsel for the appellant would argue that before the Appellate Authority, the appellant had produced the earlier sale deed, dated 23.05.1996, under which she had purchased 1.58 acres in S.No.492/4, that lie adjacent to the one now in question. Both the documents are separated by a bare 10 months time and in that sale deed 23-05-1996, the consideration paid was Rs.36,400/-. This is not considered. The properties are all dry agricultural lands, and that instead of fixing market price in terms of Rule 5 of the Tamil Nadu Stamps (Prevention of Undervaluation of Instrument) Rules, 1968, the 1st respondent has randomly fixed the market value at Rs.39/- per sq.ft. In so doing, the 1st respondent has ignored the report of the Special Deputy Collector (Stamps), dated 28.05.1996 wherein, the market value of the property was fixed at Rs.1,00,000/- per acre. Even the 1st respondent had independently caused the value to be determined, and had authorised the Deputy Tahsildar, Erode to file a report on the same. This report coupled with the report of the District Registrar, dated 04.02.2014, would indicate that the value of the property is not more than Rs.1,00,000/- per acre at the relevant time. Even though the report has been filed before the 1st respondent, this has not been considered by him at all. Instead, the 1st respondent has arbitrarily reduced Rs.49/- by 20% and fixed it at Rs.39/- per sq.ft.

4. Heard Mr.T.M.Pappiah, learned Special Government Pleader (C.S.) for the respondents.

5. On perusing the material papers made available before this Court, this Court is satisfied that the 1st respondent has entertained an element of arbitrariness in passing the order which is now impugned by the appellant. There are two reports. One by the Special Deputy Collector (Stamps) of the year 1996, and the next one by the District Registrar (Stamps) of the year 2014, both of which indicating the value of the property at the relevant time of purchase in 1997 was Rs.1,00,000/- per acre. Secondly, how the market value needs to be fixed is provided under Rule 5 of the Tamil Nadu Stamps (Prevention of Undervaluation of Instrument) Rules, 1968. There is no

indication in the impugned order that this has been followed in the instant case. It is needless to state that the market value of the property must be reckoned as on the date of the transaction and not on the basis of its present character.

6. This is a case where the 1st respondent is required to revisit the dispute again and is required to pass appropriate orders consistent with the Stamps Act and relevant rules thereof. Hence, this Court allows this appeal and sets aside the impugned order dated 25.09.2014 in PAMU No.4132A/N2/2013, on the file of the Inspector General of Registration, Chennai-600 028, and the order passed in MUPA No.554/97 dated 07.04.2000 on the file of the Special Deputy Collector Stamps, Coimbatore, and remand the matter back to the 1st respondent for fresh consideration, in accordance with law, after granting the appellant full and effective opportunity of being heard in the matter, and pass orders within a period of four months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssn
To:

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2. The Special Deputy Collector,
(Stamps), Coimbatore.

3. The Joint Sub-Registrar,
Erode.

Copy to
The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.V.Kathirvelu, Advocate Sr.49614
+1cc to the Government Pleader Sr.52472

gj ii[co]
srg 13/08/2018