IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1208 of 2009
and M.P.No.1 of 2009

Ram Rajeshkumar ... Appellant

Vs.

1. The Inspector General of Registration
Office of the Inspector General of Registration,
No.120, Santhome High Road,
Chennai 600 028.

2. The Deputy Collector (Stamps)
Trichy

3. The Sub Registrar
Melakarur. ... Respondents

Prayer : Civil Miscellaneous Appeal filed under sub-Section (10) of Section 47-A of the Indian Stamp Act, 1899 read with Rule 9 of the Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968 pleased to set aside the order of the Chief Controlling Authority cum Inspector General of Registration, Santhome, Chennai dated 21.08.2008 in proceedings No.40323/N4/2006.

For Appellant : Mr.S.Janarthanam
for M/s.Sarvabhauman Associates

For Respondents : Mr.S.Jaganathan,
Government Advocate

J U D G M E N T

This Civil Miscellaneous Appeal has been filed to set aside the order of the Chief Controlling Authority cum Inspector General of Registration, Santhome, Chennai dated 21.08.2008 in proceedings No.40323/N4/2006.

2. The appellant has purchased 0.36 ½ cents of land by way of registered document No.3432/2004 assessing market value at Rs.1000/- per cent. The guideline value at that relevant point

of time was Rs.77/- per sq.ft. The Sub Registrar has referred the document under Section 47-A(1) to the second respondent and has fixed the redetermination value of the property at Rs.72 per sq.ft against which the appellant had preferred the appeal under Section 47 (A) (5) to the first respondent herein. The first respondent had called for the report from the District Registrar and on the basis of the report has redetermined the value at Rs.32,70,000/- per acre. Aggrieved over the order passed by the first respondent dated 21.08.2008 the appellant is before this Court.

3. The learned Government Pleader submitted that the property purchased by the appellant was not an agricultural land but it was only a barren land and there are opportunities for converting into house site. Therefore the order passed by the first respondent is sustainable.

4. Heard both sides.

5. On a perusal of the order passed by the first respondent it is seen that the first respondent being an appellate authority has not conducted any site inspection and as contemplated under Rule 11(A) of Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968. On the other hand, he had deputed the District Registrar to conduct the inspection and he has also not issued any notice to the appellant before conducting inspection. The District Registrar is not an authority under the Indian Stamp Act. This Court in a judgment made in C.M.A.No.1907 of 2017 dated 08.09.2017 (S.Santhi Vs. The Chief Controlling Revenue Authority and Inspector General of Registration, Chennai and another) has held that the order passed on the basis of the report submitted by the District Registrar, is not sustainable in law. Therefore, the order passed by the 1st respondent is not sustainable for violation of the procedures specified under statutory Rules.

6. Secondly, the land which was purchased was classified as an agricultural land. The redetermination of market value shall be based on the nature of the property as it was on the date of registration, it cannot be assessed on the basis of future development. The appellant had submitted the documentary evidence showing that corn is cultivated in the land and also the chitta and adangal issued by the Village Administrative Officer which shows it is only an agricultural land. The first respondent without applying his mind has arrived at a finding on an assumption that it will be converted into house sites. The decision of the first respondent is not based on any material evidence. List of the documents relied on by the authority was also not supplied to the appellant.

7. A judgment of the Hon'ble Division Bench of this Court in the case of Special Deputy Collector (Stamps), Chennai Collectorate, Singaravelar Maligai, Chennai, Vs. Thajunnisa and others reported in (2015) 6 MLJ 129, wherein, it has been categorically found that the classification of the land, the nature of user on the date of registration shall be taken as criteria for fixing the market value. The authority shall not fix the value on the basis of future development. The relevant paragraph of the said judgment is extracted hereunder:-

> "It is to be borne in mind that the Deputy Inspector General of Registration's Report dated 22.03.2002 does not indicate any conclusion which was arrived at to the effect that the respondents/petitioners lands in question were not agricultural lands. Just because the lands in question are having the potential of being converted as house sites in future, the authorities in this regard cannot allow their imagination to run riot or to indulge in assumptions, presumptions, surmises and conjectures etc., in the considered opinion of this Court".

8. Therefore the authority ought not to have fixed the market value of the property considering its future developments.

9. In such circumstances, this Court is inclined to set aside the order passed by the first respondent in proceedings No.40323/N4/2006 dated 21.10.2018. The matter is remitted back to the 1st respondent for fresh consideration in adherence of Rule 11-A and other statutory provisions under the Indian Stamp Act, 1899. The 1st respondent is directed to complete the case within a period of three months from the date of receipt of a copy of this order. It is open to the appellant, if he so chooses to avail benefit of "Samadhan Scheme" in G.O.Ms.No.189, Commercial Taxes and Registration (J1) Department, dated 29.12.2017.

10. With the above observations, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Inspector General of Registration
   Office of the Inspector General of Registration,
   No.120, Santhome High Road, Chennai 600 028.

2. The Deputy Collector (Stamps), Trichy

3. The Sub Registrar
   Melakarur.

4. The Section Officer,
   VR Section, High Court, Madras-104. (2 Copies)

+1cc to M/s.Sarvabhauman Associates, Advocate, S.R.No.7193
+1cc to the Special Government Pleader, S.R.No.7238

C.M.A.No.1208 of 2009
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AD(CO)
CS/17/05/18