IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 29-01-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.Nos.1285 OF 2004 & 766 OF 2005

K.Vasuki ... Appellant in both appeals

-vs-

1.Chief Controlling Revenue Authority (Registration),
120, Santhome High Road,
Chennai-600 028.

2.District Revenue Officer (Stamps),
Rajaji Road,
Chennai-600 001.

3.Sub-Registrar of Registration of Documents,
Ambattur,
Chennai. ...Respondents in both appeals

C.M.A.No.1285 of 2004 is filed against the order, dated 02.03.2004, passed in No.34392/N1/2003, on the file of Chief Controlling Revenue Authority (Registration), Chennai.

C.M.A.No.766 of 2005 is filed against the order, dated 23.12.2003, passed in No.34392/N1/2003, on the file of Chief Controlling Revenue Authority (Registration), Chennai.

For appellant : Mr.C.Gunasekaran
For respondents : Mr.Venkadesh Kumar,
Govt.Advocate (CS)

JUDGMENT

The appellant has registered her agricultural land, having purchased the same from one Mallika, for the market value of Rs.34,650/-. The second respondent has redetermined the value at the rate of Rs.34/- per sq.ft., on the basis of guideline value pravailing at that point of time, and demanded deficit stamp duty of Rs.3888/-. Aggrieved over the same, the appellant preferred an appeal before the first respondent, who confirmed the order of the second respondent. Further aggrieved, the appellant preferred these appeals.

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2. The appellant would contend that as per Rule 3 (4) of Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules,1968, in short, "the Rules", fixation of value on the basis of guideline is wrong and it is only an indicator of the market price; it is incumbent on the authority to conduct an inquiry and determine the value, following the ingredients of Rule 5 of the Rules; fixation of market value on the basis of square foot rate of the house sites existing in that area is erroneous; and that redetermination had taken place without notice of inspection or supply of report, relied upon in the case.

3. Per contra, learned Government Advocate, appearing for the respondents, would submit that the appellant was given an opportunity of personal hearing on 03.11.2003 and 17.11.2003 and she was also present on 17.11.2003 and made her submissions and, therefore, it cannot be said that there is a violation of principles of natural justice. He would further contend that the Government has announced Samadhan Scheme in G.O.Ms.No.189, Commercial Taxes and Registration (J1) Department, dated 29.12.2017, wherein, the appeals pending before the High Court as on 08.06.2017 under Section 47-A (10) of the Indian Stamp Act,1899, are also covered; and, therefore, it is open to the appellant to approach the authority to avail the benefits of the Scheme.

4. Heard the rival submissions.

5. On perusal of the impugned order, it is found, that the first respondent himself, based on the report, found the nature of the property as 'agricultural land'. As contended by the learned counsel for the appellant, the value must have been redetermined, based on the classification of the property, and not on the basis of the adjacent properties. The adjacent properties were house sites and schools. The nature of use of the adjacent property cannot be a factor for redetermination. Even assuming that the authority can refix the rate, he should have preceeded with the same by spot inspection, as contemplated under Rule 11-A of the Rules. In the instant case, it appears that the inspection was done by Deputy Inspector General of Registration, without notice to the appellant. In such event, redetermination of the market value of the property without giving notice or instructions to the appellant as well as based on the value of the adjacent house sites is not sustainable in the eye of law. Accordingly, the order passed by the first respondent is set aside and the matter is remitted back to the first respondent for fresh consideration. It is open to the appellant to avail Samadhan Scheme, announced by the Government, referred to above; in which event, the first respondent shall consider the case of the appellant for remission of stamp duty within a period of three months from the date of receipt of a copy of this order. It is further open to the appellant to take

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legal recourse, if she is not satisfied with the order passed by the first respondent.

6. Civil Miscellaneous Appeals are ordered accordingly. No costs. Consnequently, the connected C.M.P.Nos.7353 of 2004 and 4315 of 2005 are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dixit

To

1.Chief Controlling Revenue Authority (Registration),
Chennai.

2.The District Revenue Officer (Stamps)
Rajaji Raod, Chennai-600 001

3.The Sub Registrar of Registration of Documents
Ambattur Chennai

+2 ccs to Mr.V.Krishnan Advocate sr 6310 & 6311
+2 ccs to special Govt Pleader sr 7248

C.M.A.Nos.1285/2004 & 766/2005

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