IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2018

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A. No.2940 of 2012
and
M.P. No.1 of 2012
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M/s.Meenakshi Ammal Trust,
Rep. By Managing Trustee,
Mr.A.N.Radhakrishnan,
No.61 (Old No.641) Ramasamy Street,
K.K.Nagar, Chennai - 600 078. .. Appellant

Versus

1. The Inspector General of Registration,
   Santhome High Road,
   Chennai - 600 028.

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

3. The Sub-Registrar,
   Virugambakkam,
   Chennai - 600 092. .. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 47-A(10) of Indian Stamps Act, 1899 against the order of the Chief Controlling Revenue Authority and Inspector-General of Registration, Chennai dated 04.05.2012 passed in Pa.Mu.No.25667/N1/2005 dated 04.05.2012.



For Appellant : Mr.M.Sivavarthanan
For Respondents: Mr.T.M.Pappiah
Spl.Govt. Pleader (Registration)

J U D G M E N T

This appeal is directed against the order passed by the first respondent dated 04.05.2012 by which the first respondent determined the market value of the property in question at Rs.385/- per square feet.

2. The property in dispute is lying within the heart of the city at Virugambakkam. The Income Tax department granted no objection to the appellant on 20.06.2002 for purchasing the property at the rate quoted by him. The sale deed presented by the petitioner was as document No. 4880 of 2002, the third respondent referred the instrument to the second respondent under Section 47-A(1) of Indian Stamp Act, 1989 for determination of correct market value. The second respondent-District Revenue officer, by order dated 27.01.2003, has assessed the market value of the property at Rs.6600/- per sq. Feet. Aggrieved by the same, the appellant preferred an appeal on 20.02.2003 before the first respondent, which was confirmed by the first respondent on 01.09.2003. The order of the first respondent dated 01.09.2003 was challenged before this Court in C.M.A.No.1298 of 2005. This Court remanded the matter back to the first respondent for considering the market value of the property afresh after giving of opportunity to the appellant. In fact, this Court in the Judgment dated 31.03.2010 specifically directed the first respondent to set out the reasons for fixing the market value adopted in this case and to take into consideration the data sale deed atleast for one year prior to the sale deed. The first respondent is further directed to take data sale deed atleast for the sale of one acre of land and then proceed with the matter. If it is not available, it is also suggested that the value of the sale pertaining to one acre of land may be found out in the identical vicinity and applying the loading system, exact sale price of the property can be determined after giving notice to the parties. Pursuant to the directions of this Court, the first respondent has carried out the exercise of assessing the market value of the property and issued notice to the appellant. Thereafter, the first respondent has passed the order dated 04.05.2012 fixing the market value of the property in question at Rs.385/- per square feet.

3. The learned counsel appearing on behalf of the appellant would submit that they do not have any document to prove the market value prevailing at the time of registration of the sale deed in question and the registration department to fix the market value and it is a parent base line and therefore the rate adopted for housing sites in the developed area cannot be taken for registration. Further, in view of clearance by Income Tax department, it should be construed that there is no intention to undervaluation of the property or any intention to evade payment of stamp duty.

4. Heard the learned counsel for the appellant as well as the learned Special Government Pleader for the respondents.

5. By the Judgment dated 31.03.2010 passed by this Court in CMA No. 1298 of 2005, this Court issued certain directions to

the first respondent while fixing the market value of the property. Pursuant to such direction, an opportunity of hearing was given to the appellant. Thereafter, the first respondent proceeded to consider the market value of the property by taking the sale transactions that had taken place in the locality. Since there was no sale transaction covering one acre or more land was available, the first respondent had taken into account the sale transactions relating to registration of housing plots which were ranging from Rs.340/- to Rs.1,317/- per sq.feet. Out of the documents taken into account for consideration, the first respondent had noticed that in three documents, the market value of the property was indicated at the rate of Rs.1,000/- per sq.feet and above and in all other documents the value indicated was between Rs.325/- to Rs.550/- per sq.feet. Since, the value in the property near to the propety of the appellant was at Rs.550/- per sq.feet it was rightly taken into consideration. Thereafter, as requested by the appellant, 30% of the value was deducted as directed by this Court. Accordingly, the market value was fixed at Rs.385/- per sq.feet and the first respondent has passed a consequential order on this basis.

6. This order of the first respondent is again challenged by the appellant on the ground that they have obtained no objection certificate from the Income Tax department and therefore, it should not be construed that the value indicated by the appellant would reflect the true and correct value. Further, the first respondent has adopted independent method, followed the guideline value for fixing the market value and the method adopted by the first respondent is erroneous and therefore, the order of the first respondent is to be set aside.

7. Admittedly the property is situated within the heart of the city and by itself a commercial property. The entire area is surrounded by well developed buildings and other establishments. This Court, on considering the previous order passed in the earlier round of litigation could notice that the first respondent has considered the data documents relevant to that period and fixed the market value and also deducted 1/3 of the market value towards development charges. Further, it is not the case of the appellant that it is an agricultural land or undeveloped land. He has purchased the property along with superstructures and from the records it is seen that property is put up to commercial use for running film studios. In such an event, the property must be a valuable property and obviously the market value must have been much higher than the guideline value. At the first instance the market value was fixed at Rs.6,600/- per sq.feet. But the first respondent has not fixed the market value, but followed guideline value and has given 1/3 deduction of the same as per the direction of this Court. In such circumstances, this Court do not find any infirmity or error in the order passed by the first respondent. The grounds

raised by the appellant that Income Tax department has given clearance certificate, was not accepted in the previous round of litigation. The appellant has not chosen to appeal against the same. The order has become final. Now during the second round, the appellant can not raise the ground, which was rejected. It amounts to waiver of rights or res-judicata. The other ground that the method adopted by the first respondent in fixing the value of the property following guideline rate cannot be said to be erroneous and is rejected. Since the other grounds have already been raised, considered and decided by this Court, I am not inclined to review the same. Therefore, it is very clear that the first respondent had followed the direction issued by this Court in a proper manner and fixed the market value properly as directed by this Court in C.M.A.No.1298 of 2005 dated 31.03.2010. For the reasons discussed above, I find no infirmity in the order passed by the first respondent.

8. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To
1. The Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.

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

3. The Sub-Registrar,
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+1 cc to the Government Pleader sr 43221

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aa16/10/2018