IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
CMA Nos. 1286 to 1288 of 2016
and
CMP Nos. 9927, 9929, 10808, 10809, 10917, and
19466 to 19468 of 2016

M/s. Sugal Projects LLP,
Rep by its Authorised Signatory,
Mr.D.Balasubramanian,
Siyat House, 4th Floor,
No.961, Poonamallee High Road,
Chennai 600 084.
... Appellant in C.M.A.No. 1286 of 2016

M/s.Sattwa Builders LLP
Rep by its Partner,
Mr.Nitesh R.Damani
Shop No.7, Phase II, Rayala Towers,
No.781-785 Anna Salai
Chennai 600002
... Appellant in C.M.A.No. 1287 of 2016

M/s. S.N.Damani Builders LLP,
Rep by its Partner
Mr.Ramesh N.Damani
Shop No.6 Phase II
Rayala Towers
No.781-785 Anna Salai
Chennai 600002.
... Appellant in C.M.A.No. 1288 of 2016

Vs.

1. The Chief Controlling Revenue Authority and
Inspector General of Registration
Chennai 600 028.

2. District Revenue Officer (Stamps)
Chennai 600 001

3. Sub Registrar
Villivakkam
... Respondents in all Civil Miscellaneous Appeals

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section 47A(10) of the Stamp Act, 1899 of C.P.C., against the order dated 05.04.2016 made in D.Dis.No.27708/N1/2015 dated

05.04.2016 passed by the Chief Controlling Revenue Authority and Inspector General of Registration.

For Appellants : Mr.Jayesh B.Dolia

For Respondents: Mr.T.M.Pappiah
Special Government Pleader

COMMON JUDGEMENT

These Civil Miscellaneous Appeals have been filed by the appellants/plaintiffs against the order dated 05.04.2016 made in D.Dis.No.27708/N1/2015 passed by the Chief Controlling Revenue Authority and the Inspector General of Registration.

2. The learned counsel appearing for the appellants would submit that the first respondent has acted arbitrarily and in a mechanical manner while determining the market value of the property without any consideration to the provisions of the Tamil Nadu Stamp (Prevention of Undervaluation of Instrument) Rules, 1968 and they have not followed Rules 4(2) and 11(A) of the Tamil Nadu Stamp (Prevention of Undervaluation of Instrument) Rules, 1968 while dealing and disposing of the Reference as well as the Appeal respectively in determining the market value of the property.

3. The respondent ought to have seen that as the factory was functioning for more than 50 years and in the subject property, there has been a lot of damage both to the upper soil and with regard to the ground water available in the said area and there are old structures to be demolished in most part of the area and a lot of money has to be spent in demolition and removal of the foundation/concrete to make the land conducive for any form of development. This would surely cost lot of money to the Company to restore the land for any proper usage.

4. The Government's guideline value for the subject property is very high and no transactions have been taken place at that rate in the said area. The Government's guideline value does not reflect the fair market value in the said area.

5. The entire approach of the respondents in fixing the value of the property per sq. feet is illegal and it does not stand to legal reasoning. The District Revenue Officer (stamp) fixed the additional stamp duty at Rs.92,34,670/- before calling objections and after objections were submitted, in his final order, reduced the same to Rs.84,66,063/-. This fact has not been taken into account by the 1st respondent.

6. The authorities have failed to arrive at the actual excess stamp duty payable by the petitioner in each of the appeals and therefore even on this ground, the order is bad in law.

7. The learned counsel appearing for the respondents would submit that the 1st respondent has considered the largeness of the property and the value of the property lying at a distance from road, may not fetch the value as that of the area abutting the road.

8. The disadvantage pointed out by the appellants have been reported by the Inspecting Officer and the 1st respondent also considered those facts put forth by the appellants as well as the Inspecting Officer. In all, 15% allowance has been allowed from the market value for the disadvantages affecting the value of the property. The Guideline value of Rs. 6000/- per Sq.ft., for MTH Road has been generally accepted by the public and no representation has been received complaining it to be excessive or unreasonable. Hence the guideline value really reflects the prevailing market value. There might have been an error in calculating the deficit stamp duty by the 2nd respondent. However, it has been rectified on receipt of representation from the appellants. The process of determination of market value by the respondents will not be hit for the reason that the 2nd respondent has raised incorrect demand. The error in calculating the deficit stamp duty has already been rectified and hence there cannot be any grievance for the appellants on this score. The order determining the market value will not become bad, in law on account of a calculation error which is rectifiable.

9. This Court is of the view that to decide the issue by giving an opportunity to the appellants and to fix proper value after hearing the parties, C.M.A.Nos. 1286 to 1288 of 2016 are to be remanded back to the first respondent for fresh adjudication. Hence, the three Civil Miscellaneous Appeals are remanded back to the first respondent to adjudicate the same afresh especially with regard to the age of the building, measurement of the building constructed and also the value of the building by every year, after giving proper notice to the parties concerned and giving them personal hearing, either in person or through an Advocate and dispose of the matter within a period of 12 weeks from the date of receipt of a copy of this order.

10. With the above directions, these Civil Miscellaneous Appeals are disposed of. No Costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//
Sub Assistant Registrar

kmm

To,

1. The Chief Controlling Revenue Authority and
Inspector General of Registration
Chennai 600 028.

2. District Revenue Officer (Stamps)
Chennai 600 001

3. Sub Registrar
Villivakkam

+1cc to Mr.Aiyar and Dolia , Advocate SR.No. 93270
+1 cc to Government Pleader Sr.No. 93733
+1 cc to Spl Government Pleader Sr.No. 91687

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10917, and 19466 to 19468 of 2016

A.SK(21/02/2020)