IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.03.2019

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1926 of 2018 &
C.M.P.No.14851 of 2018

Annai Veilankanni's Educational
& Charitable Trust,
represented by its Managing Trustee
Dr.S.Devaraj,
No.81, V.G.P. Salai, Saidapet,
Chennai 600 015. .. Petitioner / Appellant

-vs-

1. The Inspector General of Registration and Chief Controller of Revenue Authority, Santhome High Road, Chennai 600 028.
2. The District Revenue Officer (Stamps), Thiruvallur District at Chennai Office of the Collectorate, Singaravelar Maaligai, 5th Floor, No.8, Rajaji Salai, Chennai 600 001.
3. The Sub Registrar, Redhills, Chennai. .. Respondents / Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 47 (10) of the Indian Stamp Act, 1899 praying to set aside the order dated 09.02.2018 in the proceedings in Na.Ka.No.38947/N1/2016 of the 1st respondent.

For Petitioner : Mr.V. Bhiman
for M/s.Sampathkumar Associates

for Respondent : Mr.T.M. Pappiah
Spl. Govt. Pleader

JUDGMENT

The present Civil Miscellaneous Appeal is preferred against the proceedings passed by the 1st respondent in Na. Ka. No. 38947/ N1/2016 dated09.02.2018.

2. The brief facts leading to the filing of Civil Miscellaneous Appeal is as follows.

(i) The appellant is a an Educational and Charitable trust viz., Annai Velankanni's Educational and Charitable Trust, that had purchased an agricultural land measuring 1 acre 31 cents in S.No.247/1 and 247/2A in Panchetti Village, Ponneri Taluk, Thiruvallur District situate within the jurisdiction of Registration District of North Madras and Sub Registration District of Redhills.

(ii) The presentant of the document valued the property at Rs.76,33,588/- per acre and presented the same to the 3rd respondent, viz., Sub-Registrar, Redhills, Chennai. The document was registered as document No.10739 of 2015 and the 3rd respondent referred the same to the 2nd respondent for determination of market value. The 2nd respondent has fixed the market value at Rs.800/- per square feet and directed the appellant to pay the deficit stamp duty.

(iii) Aggrieved over the order passed by the 2nd respondent, the appellant preferred an appeal before the appellate authority who is the 1st respondent herein. The 1st respondent, by its order dated 9.2.2018 redetermined the value at Rs.600/- per square feet in Na.Ka.No.38947/N1/2016. Aggrieved over the order passed by the 2nd respondent, the appellant is before this Court.

3. Heard the submissions of Mr. V. Bhiman, learned counsel appearing for the appellant and Mr.T.M. Pappiah, learned Special Government Pleader appearing for the respondents.

4. When the matter was taken up for hearing, the learned counsel appearing for the appellant would submit that the appellant educational agency has purchased the property only for the purpose of cultivating medicinal plants and nursery plants for free supply to the local people, as such the land in dispute is only an agricultural land. But contrary to the guideline value available in the office of the 3rd respondent, a fancy price at Rs.1000/- per sq.ft. was recommended by him. The fixation of market value by the 3rd respondent at Rs.1000/- is without any basis and the same was fixed according to his whims and fancies. The 1st respondent ought to have fixed the value of the market value of the property taking into account the nature of property on the date of registration, whereas the agricultural land was assessed at square foot rate and the excessive amount was fixed. Therefore, learned counsel for the appellant would seek the impugned order be set aside.

5. The learned Special Government Pleader appearing for the respondents would contend that the land in dispute was situate at GNT Road and was surrounded by Industries and Commercial Establishments. The property was purchased by an educational

agency, which by itself speak volumes. An educational agency would purchase the property only to build a school and not for doing agriculture. Therefore the fixation of market value by the 1st respondent is valid and reasonable.

6. I have considered the impugned order passed by the 1st respondent and perused the materials available on record

7. From the records, it is seen that this property which was purchased by the appellant is surrounded by the agricultural lands and the access to the land was only through 10 feet mud road. However, the terrain of the property has ups and downs and it is a low lying area. In such circumstances, without any finding as to the nature of the property, the order passed by the 1st respondent is not in accordance with law and thereby the same is liable to be set aside.

8. Further the determination of the market value does not conform to the mandatory requirements of the Act and Rules. Therefore, this Court is inclined to accept the arguments of the learned counsel for the appellant and set aside the order passed by the 1st respondent in Na.Ka.No.38947/N1/2016 and remit the matter back to the first respondent for fresh consideration.

9. While considering the appeal afresh, the 1st respondent is directed to take into consideration the sworn affidavit filed by the appellant that the appellant has no intention to convert the nature of the property from agriculture land into commercial one. The first respondent in strict adherence with Rule 11(A) of the Tamilnadu (Stamp (Prevention of Under Valuation of Instruments) Rules, 1968 conduct inspection of the property after giving notice to the appellant and also pass a reasonable order on merits after affording an opportunity of personal hearing within a period of three months from the date of personal hearing.

10. With the above observation, the Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected C.M.P.No.14851 of 2018 is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1) The Inspector General of Registration
and Chief Controller of Revenue
Authority, Santhome High Road,
Chennai 600 028.

2) The District Revenue Officer (Stamps),
Thiruvallur District at Chennai
Office of the Collectorate,
Singaravelar Maaligai, 5th Floor,
No.8, Rajaji Salai, Chennai 600 001.

3) The Sub Registrar,
Redhills, Chennai.

+3 ccs to M/s.Sampathkumar Associates, Advocate, S.R.No.27155

+1 cc to the Government Pleader, S.R.No.28049

C.M.A.No.1926 of 2018
C.M.P.No.14851 of 2018

KJ(CO)
SSM(27/03/2019).