IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Civil Miscellaneous Appeal Nos.1236 and 1237 of 2014 and
M.P.Nos.1 and 1 of 2014 and
CMP.Nos.18940 and 18936 of 2018

1.C.Velusamy
2.V.C.Murugesan ...Appellants in both appeals

Vs

1.The Sub Registrar,
Registration office
Sathiamangalam,
Erode.

2.The District Revenue Officer (Stamps),
Coimbatore.

3.The Chief Controlling Revenue Authority-cum-
Inspector General of Registration,
Foreshore Estate,
Pattinapakkam,
No.100, Santhome,
Chennai-600 028. ...Respondents in both appeals

COMMON PRAYER

Civil Miscellaneous Appeals filed under Section 47A(10) of the Indian Stamp Act against the orders dated 10.12.2011 passed by the first respondent in Pa.Mu.No.58178/N2/2008.

For Appellants : Mr.M.Palani

For Respondents: Mr.T.M.Pappiah
Special Govt. Pleader (CS)

COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed by the appellants against the orders dated 10.12.2011 passed by the third respondent fixing the value of the lands at Rs.34/- per sq. ft. i.e., Rs.14,00,000/- per acre.

2. Since the parties and the issue involved are one and the same, both the appeals were heard together and disposed of by this common judgment.

3. Brief facts are as follows: The appellants have purchased immovable properties of agricultural land in Survey No.393/3 (Old S.No.131A, 131B and 131C) to an extent of 1.46 acres under Document No.4620 of 2007 for a sale consideration of Rs.6,25,000/-. They have also purchased immovable properties of agricultural land in Survey No.393/3 (Old S.No.131A, 131B and 131C) to an extent of 4.10 acres under Document No.4621 of 2007 for a sale consideration of Rs.23,22,000/-. Sale deeds were registered in favour of the appellants on 07.10.2007 on the file of the first respondent. Since the land value has not been adopted in the documents, the first respondent referred the documents under Section 47A(1) of the Indian Stamp Act, 1899 to the second respondent for determination of the market value. By an order dated 17.10.2008, the second respondent, fixed the market value of the land at Rs.172/- per sq. ft. and demanded the appellants to pay the deficit stamp duty. Aggrieved by the order of the second respondent, the appellants have preferred appeal before the third respondent. By an order dated 10.12.2011, the third respondent, finally determined the market value as Rs.14.00 lakhs per acre. Aggrieved by the same, the appellants have preferred these appeals.

4. Resisting the appeals, the first respondent filed counter stating that after considering the report of the second respondent and objections raised by the appellants and also reports of the District Registrar, Coimbatore, the third respondent came to the conclusion that the properties are situated at a well developed area and thus determined the market value at Rs.14.00 lakhs per acre. It is stated that the third respondent has duly determined the market value of the properties in accordance with the principles for determination of market value prescribed under rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 and thus prayed for dismissal of the appeals.

5. I heard Mr.M.Palani, learned counsel for the appellants and Mr.T.M.Pappiah, learned Special Government Pleader (CS) for

the respondents.

6. The impugned orders of the third respondent dated 10.12.2011 have been challenged by the appellants on the following grounds:

(i) The order of the first respondent is contrary to law, weight of evidence and probability of the case.

(ii) The third respondent grossly erred in fixing the rate for the land at the rate of Rs.34/- per sq. ft. and Rs.14.00 lakhs per acre.

(iii) Despite production of registered sale deed dated 1.8.2007 to show that the adjacent land was sold at the rate of Rs.13/- per sq. ft., the third respondent erred in fixing the land value at the rate of Rs.34/- per sq. ft. and Rs.14.00 lakhs per acre to the appellants land.

(iv) The third respondent failed to consider another document dated 1.1.2007 registered at the rate of Rs.13/- per sq. ft. and Rs.3,83,500/- per acre in respect of the adjacent land produced by the appellants.

(v) The third respondent erred in charging interest at the rate of 1% from, after the expiry of two months from the date of the order of the second respondent till 31.8.2010 and thereafter, at the rate of 1% from 1.9.2010 till the date of payment of deficit stamp duty.

7. The learned Special Government Pleader (CS) appearing for the respondent submitted that pursuant to the documents referred by the first respondent, the second respondent conducted audit and fixed Rs.172/- per sq. ft. for the land mentioned in the sale deeds and the same was duly informed to the appellants. He would submit that after inspecting the property on 30.9.2008 and upon local enquiry, the second respondent determined the market value of the lands at Rs.172/- per sq. ft. and demanded the appellants to pay the deficit stamp duty. Aggrieved by the order of the second respondent, the appellants have preferred appeal before the third respondent and the third respondent, upon considering the report of the second respondent and objections of the appellants, determined the value of the properties in question as Rs.14.00 lakhs. Since the order of the third respondent is well considered, the learned Special Government Pleader prayed for dismissal of the appeals.

8. I have considered the submissions made by the learned counsel for the appellants and the learned Special Government Pleader and also perused the materials available on record.

9. Pending appeals, the appellants have filed C.M.P.Nos.18936 and 18940 of 2018 under Order 41, Rule 27 of CPC seeking to receive the sale deed dated 24.03.2011 bearing Document No.1876/2011 registered in the Office of the Sub Registrar, Sathiamangalam in respect of the property in Survey No.388/1, which is part of Survey No.388 as part and parcel of the appeal.

10. Taking us through the sale deed dated 24.03.2011, the learned counsel for the appellants submitted that one K.P.Arumugam had purchased agricultural land in Survey No.388/1 in Sathiamangalam village in an extent of 3.74 acres at the value of Rs.7,53,000/- and paid stamp duty of Rs.60,320/-. The learned counsel further submitted that the land in S.No.388/1 is one of the boundaries of the appellants land i.e., east of the appellants land. He would also submit that the said sale deed was referred by the first respondent to the second respondent for revaluation under Section 47A of the Act and the second respondent directed K.P.Arumugam to pay excess stamp duty of Rs.3,88,910/- in addition to the stamp duty already paid. As per revaluation the stamp duty paid thereon per acre is Rs.1,20,115/- and the appellants are ready to pay the stamp duty as valued by the second respondent in the sale deed dated 24.03.2011.

11. On a perusal of the schedule of properties of the appellants' sale deeds dated 01.10.2007, it is seen that Survey No.388 has been mentioned as one of the boundaries. Thus, it is clear that the lands mentioned in the sale deeds in question are situated near the land mentioned in the sale deed dated 24.03.2011.

12. It appears that in the provisional assessment and/or the final assessment made in respect of the properties in question, the second respondent has not given details regarding fixing of the market rate. In fact, in its order dated 17.10.2008, the second respondent stated that despite notice, the appellants have not turned up and submitted their objection. Thus, the second respondent suo motu determined the market value of the property at Rs.1,09,83,832/- and Rs.3,07,46,972/- respectively and called upon the appellants to pay the deficit stamp duty. There is total absence of details regarding the value of per cent and/or per acre or per square feet. There is no discussion in fixing the aforesaid value by the second respondent. The only discussion made by the second respondent is location of the properties. In fact, in its order, the second respondent stated that the properties in question situate 100 feet away from the main road and there is no basic facilities and the said properties were likely to be developed. When that being the case, while fixing the market value of the

properties in question, the second respondent ought to have given details.

13. Aggrieved by the order of the second respondent, the appellants have preferred appeals before the third respondent/Appellate Authority. The Appellate Authority modified by the order of the second respondent and re-fixed the value at Rs.14,00,000/- per acre. The order of the Appellate Authority is dated 10.12.2011. Similarly, the Appellate Authority in its order stated that the properties in question situate 100 feet away from the main road and at the time of sale in question, the properties were agricultural lands in nature. The document which was produced by the appellants for comparison by way of additional evidence is dated 24.03.2011 i.e., before the order of the Appellate Authority. Since the appellants are ready and willing to pay the stamp duty as per the revised rate mentioned in the sale deed dated 24.3.2011, there may not be any objection from the respondents in directing the appellants to pay the deficit stamp duty as per document dated 24.3.2011.

14. On a perusal of the orders of the respondents 1 and 2, it is seen that exercising their power, they have determined the market value and demanded the stamp duty. When there is no basis for determination of the market value of the properties in question, the respondents are not entitled to demand stamp duty as demanded by them. Since the appellants are agreeable to pay the stamp duty as per the sale deed dated 24.03.2011, no prejudice and/or loss would be caused to the respondents in directing the appellants to pay the deficit stamp duty.

15. In view of the above, this Court is of the view that it would be appropriate to direct the appellants to pay the stamp duty for the sale deeds in question as per the sale deed bearing No.1876 of 2011 dated 24.03.2011 registered in the office of the Sub Registrar, Sathiamangalam, which was re-fixed and paid by the purchaser vide endorsement dated 11.08.2015. In addition, the appellants are directed to pay the interest on the differences of stamp duty at the rate of 1% from 01.10.2007 to 17.10.2008.

16. With the above observations and directions, both the Civil Miscellaneous Appeals are partly allowed and the orders of the third respondent are modified to the extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

vs

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Sub Registrar,
Registration office
Sathiamangalam,
Erode.

2.The District Revenue Officer (Stamps),
Coimbatore.

3.The Chief Controlling Revenue Authority-cum-
Inspector General of Registration,
Foreshore Estate,
Pattinapakkam,
No.100, Santhome,
Chennai-600 028.

+1cc to Mr.M.Palani, Advocate, S.R.No.746

+1cc to Mr.M.Palani, Advocate, S.R.No.747
(dt:21/02/2019)

+1cc to the Government Pleader, S.R.No.1931

C.M.A.Nos.1236 and 1237 of 2014 and
M.P.Nos.1 and 1 of 2014 and
CMP.Nos.18940 and 18936 of 2018

KAK(20/02/2019)