IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.11.2019
CORAM
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2078 of 2014
and
M.P.No.1 of 2014

M.Kumar ... Appellant

Vs.

The Chief Controlling Revenue Authority
-Cum-Inspector General of Registration,
No.120, Santhom High Road,
Chennai - 600 028. ... Respondent

Civil Miscellaneous Appeal is filed under Section 47(10) of the Indian Stamp Act, 1899, to call for the records of the order in Ba.Mu.No.159/N1/2013 dated 20-02-2014 passed by the Chief Controlling Revenue Authority-Cum-Inspector General of Registration, Chennai - 600 028, set aside the same by allowing this appeal.

For Petitioner: Ms.Valarmathi
for Mr.M.Mohideen Pichai

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

JUDGMENT

The present Civil Miscellaneous Appeal has been filed with a prayer to call for the records of the order in Ba.Mu.No.159/N1/2013, dated 20-02-2014 passed by the Chief Controlling Revenue Authority-Cum-Inspector General of Registration, Chennai - 600 028, and to set aside the same by allowing this appeal.

2.The case of the appellant is that an agreement of sale was entered into between his vendor and the appellant on 08.05.2007, wherein the vendors offered to sell the schedule property to the appellant for a sale consideration of Rs.2,20,00,000/-(Rupees Two Crore and Twenty Lakh Only). Further, the vendors have agreed to execute the sale deed after the sale consideration is paid. The schedule mentioned property is to an extent of 12,212 sq. ft. bearing door nos.45 and 46, Arcot Road, Saligramam, Chennai - 600 093, comprised in No.110, Saligramam Village, Block No.42, Old Survey No.111/1A1, New Survey No.128, Egmore, Nungambakkam Taluk, Chennai District, including thatched roof house with E.B & Metro Water Connection.

3.Further, a sale deed has been executed for an amount of Rs.1,10,00,000/- before the Sub-Registrar Office, Virugambakkam and as per the schedule it is seen that the property sold was only to an extent of 6106 sq ft out of 12212 Sq. Ft., which was found in the agreement of sale. When the same was presented for registration, they have paid stamp duty of Rs.8,80,000/-(Rupees Eight Lakh and Eighty Thousand Only) by calculating 8% of the sale consideration of Rs.1,10,00,000/-. The extent purchased by the appellant is only half of the extent which is originally stated in the sale agreement.

4.Thereafter, by notice dated 21.02.2008, in notice no.A2/4/2008, the District Revenue Officer(Stamps), Chennai has informed that the value of the property has been fixed at Rs.2,44, 24,000 based on the guideline value of Rs.4000/- per Sq. Ft., which is prevailing and the DRO(Stamps) has also directed the appellant to pay an additional stamp duty of Rs.10,73,920. The appellant was directed to file his objections, if any, within 21 days of the said notice being issued. Immediately, the appellant has filed his objection dated 10.03.2008 before the District Revenue Officer(Stamps), Chennai, stating that the value of the property given in the sale deed reflected its actual market rate and it is very much lesser then the guideline value fixed due to the fact that on the front side, the breath of the property is 8.4 meter only and with the above narrow passage, the property would not be used for any giant project and further, a Civil Suit in O.S.No.3485 of 2007 has been pending before the III Assistant City Civil Court, Chennai in respect of the ownership of the above property.

5.After receiving the objections, the DRO(Stamps), Chennai passed the Provisional Order No.A2/4/2008 dated 18.07.2008 fixing the market value at Rs.3,925 per Sq.f t., by reducing it from Rs.4000 per Sq.Ft., and Rs.10,48,288/- was demanded as deficit stamp duty and the appellant was informed that the final enquiry would be conducted within 15 days thereafter and the objections, if any, be filed within that date. The appellant also filed his objection on 03.08.2008 before the DRO(Stamps) reiterating the objections raised by him in the earlier representation dated 10.03.2008. No further notice was sent regarding the date of enquiry.

6.The D.R.O.(Stamps), Chennai by his proceedings dated 11.08.2008, in Order No.A2/4/2008 demanded an additional stamp duty of Rs.10,48,288/- stating that the appellant has not filed any objection. Immediately, the appellant has sent a legal notice on 30.08.2008 pointing out that he has raised objections against the said order and that he has filed an appeal against the order dated 21.02.2007 and prayed for reopening of the case so that, his objections could be meted out by the DRO(Stamps).

7.With no alternative, when no reply was received, the appellant has filed W.P.No.13906 of 2009 before this Court seeking for an Mandamus to quash the order dated 11.08.2008, in Na.Ka.C.Pa.Nu.A2/4/2008 directing him pay a sum of Rs.10,48,288/- towards Stamp Duty. This Court on 13.12.2012 has disposed of the said writ petition stating that there is an alternative remedy and granted liberty to the appellant to prefer an appeal before the Inspector General of Registration within a period of two weeks from the date of receipt of a copy of the order and further this Court also directed the Appellate Authority to consider the appeal without reference to period of limitation. A copy of this Order was received by the appellant on 21.12.2012 and he preferred an appeal on 02.01.2013, raising various grounds.

8.On 17.10.2013, the Chief Controlling Revenue Authority/Inspector General of Registration sent show cause notice.No.159/N1/2013 stating that they have received the appeal filed by the appellant on 02.01.2013 and the letter dated 30.09.2013, which was sent by Inspector General of Registration. In the said notice, it has been stated that on 15.10.2013 there was an enquiry conducted by the Inspector General of Registration and the appellant has appeared before the Officer through his counsel and after hearing the arguments and perusing the materials and records available, the Inspector General of Registration has fixed the market value of the property at Rs.4,000/- per Sq.Ft., and to show reasons as to why the marked value cannot be fixed at Rs.4,000/- per Sq. Ft., 10 days time was given the appellant to file his objections. The appellant again submitter further representation on 07.11.2013 reiterating the same set of objections before the Inspector General of Registration and prayed that the matter may be remitted back to the officer for fresh disposal by taking into consideration the objections dated 10.03.2008 in Doc.No.4 and 03.08.2008 in Doc.No.6 and further provide opportunity to the appellant to adduce oral evidence.

9.The Inspector General of Registration instead of remitting the matter back, has passed the impugned order dated 20.02.2014 without referring to the objections raised by the appellant in the earlier representations dated 10.03.2008 and 03.08.2008 and his legal notice dated 30.08.2008, the Memorandum of appeal filed before the Chief Controling Revenue Authority-Cum-Inspector General of Registration on 02.01.2013 and his written arguments dated 15.01.2013 and 07.11.2013. Challenging the order dated 20.02.2014, the appellant is before this Court.

10.The learned counsel for the petitioner submitted that the impugned order has been passed by the Inspector of Registration when the appellant has sought for remitting the matter back to the authority concerned for considering the objections raised by the appellant. Further, the Inspector General of Registration has passed the impugned order when the appellant has submitted that the value of the property is lesser then the guideline value and that on the front side the breath of the property is 8.4 meter only and with the above narrow passage, the property would not be used for any giant project. Besides that, a civil suit in O.S.No.3485 of 2007 has been pending before the III Assistant City Civil Court at Chennai in respect of the ownership of the above property and therefore, prayed that the impugned order has to be set aside.

11.It is his further contention that no opportunity was given to the appellant to reiterate his objections and that the impugned order has been passed without considering the objections filed by the appellant dated 10.03.2008 and 03.08.2008 and the legal notice issued by the appellant on 30.08.2008 for reopening of the case so that the appellant can let in oral evidence. Further, this Court has given a direction that the appeal of the appellant has to be considered. However, on 15.10.2013, when the appellant appeared before the Inspector General of Registration and put forth his arguments, the earlier objections raised by him were not considered and prayed for quashing of the impugned order.

12.The learned counsel for the appellant relied on the judgment of this Court reported in (1995)1 MLJ 348 and submitted that the Revenue Divisional Officer therein had not all adverted his mind to any of the objections raised by the claimant though it was available with him in writing nor has he recorded oral evidence either from the claimant or from the revenue officials concerned. Even for the data sale deeds relied on by him, there was no semblance of proof or relevancy clinching the proximity of the said documents to the property in question. Further the, RDO therein has not make any attempts to scrutinize how the higher value either at the rate mentioned by the Sub Registrar or the Tahsildar would have been possible. Therefore, this Court has held that the procedure adopted by the learned R.D.O is against the settled legal principles and norms, arbitrary and cannot be sustained in law and also held that the order passed by the appellate authority and the initial order passed by the R.D.O has to be set aside and remanded the matter to the learned Revenue Divisional Officer for consideration of the whole matter afresh and to dispose of the same in accordance with law within a maximum period of 8 weeks from the date of receipt of the records. The learned counsel for the appellant relied on the above cited Judgment and prayed for dismissal of the present civil miscellaneous appeal.

13.Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondents submitted that the Authorities have considered all the objections raised by the appellant and it is seen that the value of the property has been fixed at Rs.1801/- per Sq.Ft., on the relevant date but, the guide line value from 01.08.2007 was Rs.4,000/- per Sq.Ft., Hence, the Sub-Registrar has fixed the value at Rs.4,000/- per Sq.Ft., and the District Revenue Officer(Stamps) has fixed it at Rs.3,925 per Sq.ft. by valuing the property to an extent of Rs.1,37,547/- and has passed an order stating that the property in dispute is situated at Arcot Road, Saligramam and the same has been utilized for commercial purposes and that it has got all the basic amenities and transport facilities.

14.Further, the District Registrar(Administration) has fixed the value of the property at Rs.4,000/- per sq.ft. after considering that the property is located in Saligramam Village, about ½ km., from Vadapalani Bus stand and in the junction of Arcot Road and 80 feet road towards K.K.Nagar, and it is used for commercial purpose and 'Mani Magal' marriage hall has been constructed in the disputed property. As per the local enquiry, in Arcot Road, the value of 1 ground(2400 feet) is between 1 crore to 1.5 crore.

15.Thereafter, on 15.10.2013, the appellant was directed to appear in person to substantiate his case. After hearing the appellant and the perusing the orders passed by the District Revenue Officer(Stamps) Chennai, report of the Inquiry Officer (District Registrar(Admin.) South Chennai and Sales Statistics etc., the Inspector General of Registration has passed an order which has been impugned herein.

16.The learned counsel for the respondent further submitted that the petitioner has contended that Form-I Notice in the form of show cause Notice was sent to his client fixing a value of Rs.2,44,24,000/- based upon guideline value of Rs.4000/- per sq.ft., and the appellant was directed to pay a deficit Stamp Duty of Rs.10,73,920/- and to the same, the appellant has filed objections and the same was not taken into account while passing final order. However, this issue was considered while passing the impugned order, wherein, it is it was taken into consideration that the front width of the property is only 8.4 metres and the property is involved in civil suit vide O.S.No.3488/2007. Hence, the valuation of the property adopted in the document is correct and hence, the order of the District Revenue Officer(Stamps) was set aside.

17.Further the learned counsel for the respondent contended that the District Registrar in his report has stated that the property is located in Saligramam Village, about ½ Km., from Vadapalani Bus stand in a very prominent and important commercial and currently it has been converted into marriage hall after purchase. Further, there is a direct approach from Arcot road having a width of about 20 to 25 feet.

18.Further, he contended that as local enquiry, as on the date of purchase, value of the property on Arcot road was between Rs.1 crore to 1.5 crore. However, since the approach to the property even though is direct from the Arcot road, its width is only about 20 to 25 feet and hence, its value may be assessed as being between Rs.95,00,000/- to Rs.1,00,00,000/-. Accordingly, the value of the property should be fixed as Rs.4,000/- per sq.ft.

19.He also rejected the contention of the appellant that the guideline value fixed does not reflect the market value of the property, since large number of registrations have taken place adopting Guideline value. Further, there are no special disadvantages attached to the property to reduce its Market value. Also, the property is situated in prominent commercial area and has direct access from the Arcot road. The same is proved from the fact that the property has been converted now into a Kalyanamandapam.

20.It is also seen from the impugned order that when an opportunity was given to the appellant on 15.10.2013, the appellant counsel did not raise any fresh objections other than the objections raised earlier. Therefore, the Inspector General of Registration, based on the enquiry and the nature of the property and the location and usage of the property for commercial purpose, has come to to the conclusion that the property will fetch Rs.4,000/- per Sq.Ft., and has directed the appellant to pay the deficit stamp fee within a period of two months. Regarding the value of the property fixed at Rs.1,37,547/- by the DRO(Stamps) the appellant has not raised any objection and the same was confirmed.

21.It is seen that the appellant has not produced any document to show that the market value of the property is lesser than the guideline value. In respect of his contention he has not produced any other fresh material as seen from the order of the Inspector General of Registration. It is seen that the petitioner has filed W.P.No.13906 of 2009 praying to quash the order dated 11.08.2008 passed by the District Revenue Officer (Stamps) and to direct the DRO(Stamps) to dispose of the objections preferred by the appellant against his order passed vide letter A2/4/2008 dated 18.07.2008 in accordance with law.

As this Court has directed the Inspector General of Registration to dispose of the appeal, the same was considered by the Authority by issuing notice to the appellant to appear before the Authority.

22.Further, the Inspector General of Registration has considered the objections raised by the appellant as regards the market value and the guideline value of the property and the place where the property is situate, access to the property, the breath of the property and utility of the property. Pendency of litigation in Court need not be taken into account as it is between the vendor and the purchaser. The Authority has also considered the sales statistics which reveals that in most of the registrations on Arcot road, Guideline has been adopted and has fixed the value of the property as Rs.4,000/- per sq.ft., Further no fresh materials or evidence has been produced by the appellant to substantiate his case that the guideline value is lesser than the market value of the property.

23.The respondent/Chief Controlling Revenue Authority-Cum-Inspector General of Registration has considered all the objections raised by the appellant in detail and passed the impugned order, this Court finds no reason to interfere with the same and hence, the Civil Miscellaneous Appeal, filed by the appellant, is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

tsg
To

The Chief Controlling Revenue Authority
-Cum-Inspector General of Registration,
No.120, Santhom High Road,
Chennai - 600 028.

+1 CC to Mr.S. Mohan Advocate sr 99744
+1 CC to Govt. Pleader sr 100439.

C.M.A.No.2078 of 2014
and
M.P.No.1 of 2014

VSNII(CO)
SP(06/02/2020)