IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.11.2019

PRONOUNCED ON : 11.11.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.28289 of 2019

Subramania Gounder ... Petitioner

Vs

1.The Chief Controlling
Revenue Authority cum
Inspector General of Registration,
Santhome High Road,
Chennai - 600 004.

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

3.The Sub Registrar,
Ganapathy,
Coimbatore District. ... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Mandamus to direct the first respondent to pass orders on the basis of the order passed by this Court in C.M.A.No.2147 of 2012 dated 29.01.2018 by taking note of the first respondent order made in Na.Ka.No.56527/N2/2017 dated 10.07.2019.

For Petitioner :Mr.C.Prakasam

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



ORDER

The petitioner herein has purchased a house site with asbestos cement sheet shed in S.No. 496, Vilankurichi Village, Coimbatore District, on 19/07/2000. He has valued the land at the rate of Rs.60/- per sqft and presented the document for registration before the 3rd respondent. The document was referred to the second respondent for assessment of value. Accordingly, the 2nd respondent exercising the power under section 47 A of the Indian Stamp Act, valued the property at the rate of Rs.980.60/- per sq.ft. and issued proceedings dated 29/06/2005 demanding the deficit stamp duty of Rs.5,48,293/- to be paid within two weeks from the date of the order.

2.Aggrieved by the order of the second respondent, the petitioner has preferred appeal under section 47 A (5) of the Indian Stamp Act, before the first respondent. After considering the submissions of the petitioner and on verification of the records, the first respondent passed order on 28/07/2010 werein, the value of the property was fixed at the rate of Rs.425/- per sq.ft. The petitioner was directed to pay the deficit stamp duty along with interest at the rate of 2% pm and get the document registered. Not satisfied with the order passed in the appeal by the first respondent, the petitioner has filed C.M.A.No.2147 of 2012 under section 47 A (10) before the High Court, Madras.

3.This Court after hearing the petitioner and the respondents disposed C.M.A.No.2147 of 2012 on 29/01/2018 with the following direction:

> "6.In view of the submission made, a direction is issued to the Chief Controlling Revenue Authority-cum-Inspector General of Registration, Chennai/1st respondent, to consider the case of the appellant as per G.O.Ms.No.189, Commercial Taxes and Registration (J1) Department, dated 29.12.2017 for remission of stamp duty. Despite consideration, if the appellant has any grievance, it is open to him to take appropriate legal proceedings."



4.The petitioner herein would submit that, the first respondent has not passed order till date, but, in respect of neighbouring property purchased by the petitioner's daughter-in-law - Manjula, pursuant to the direction of the High Court in a Civil Miscellaneous Appeal filed by her, the first respondent has fixed the value of the land at the rate of Rs.201/- per sq.ft. The property of Manjula is adjacent to the petitioner property and both the properties were purchased at the same time and presented for registration before the third respondent on the same day.

5.While so, referring the proceedings issued in favour of Manjula on 10/07/2019, the petitioner herein sent a reminder to the respondents on 16/08/2019. Till date, the respondents have not acted upon his representation. Hence, the petitioner has filed the present writ petition seeking mandamus to direct the respondents to pass order on his appeal, within the time prescribed taking into consideration the order passed by the High Court in C.M.A.No.2147 of 2012 dated 29/01/2018 and the order passed by the first respondent on 10/07/2019 in respect of similarly placed person.

6.The learned Special Government Pleader representing the respondents would submit that, pursuant to the direction of this court passed in CMA 2147/12 dated 29/01/2018, the petitioner was asked to pay 2/3rd of the guideline value ( 980/60 per sq.ft) waiving 1/3rd, as per G.O. Ms. No. 189, Commercial Taxes and Registration (J1) department dated 29/12/2017, which is the samadan scheme announced by the Government. When the petitioner was informed about the concession given to him as per the samadhan scheme, the petitioner failed to pay the deficit stamp duty as fixed by the third respondent pursuant to the order of the High court passed in C.M.A.No.2147 of 2012. Contrarily, the petitioner demanded waiver of 1/3rd stamp duty to the value fixed by the Inspector General of registration in his order dated 28/09/2010 (Rs.425/- per sq.ft). The said demand of the petitioner was not in consonance to the G.O Ms.189 dated 29/12/2017. Hence, the prayer in the writ petition is not maintainable.

7.The perusal of the records reveals that the petitioner has presented his sale deed on 19/07/2000 valuing the property at the rate of Rs.60/- per sq.ft. This was found to be undervalued by the 3rd respondent. Hence, the third respondent referred the document to the second respondent. The second respondent, on verifying the guideline value and market value had assessed the property value at Rs.980.60/- per sq.ft. This has been reconsidered by the first respondent in the appeal and reduced to Rs.425/- per sq.ft.

8.The first respondent in his proceedings dated 10/07/2019 in respect of neighbouring land registered on the same day has discussed the reports of the second and third respondents and had fixed the value of the land at the rate of Rs.201/-. What is expected from the first respondent is a similar discussion and consideration of the representation given by the petitioner.

9.Therefore, the first respondent is hereby directed to consider the matter in the light of the direction of this court in C.M.A.No.2147 of 2012 dated 29.01.2018 and pass orders on merits and in accordance with law preferably within a period of six weeks from the date of receipt of a copy this order.

10.With the above direction, the Writ Petition is disposed of. No order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Chief Controlling
Revenue Authority cum
Inspector General of Registration,
Santhome High Road,
Chennai - 600 004.

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

3.The Sub Registrar,
Ganapathy,
Coimbatore District.

+1 cc to Mr.C.Prakasam Advocate sr93806
+1 cc to Government Pleader sr93782

Order made in
W.P.No.28289 of 2019

aa26/11/2019