IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.NO.18116 OF 2017 AND
WMP.NO.19660 OF 2017

P.M.A.Katheeja Umma .. Petitioner

-vs-

1. The Inspector General of Registration,
No.20 Santhome High Road,
Chennai-28.

2. The Special Deputy Collector (Stamps).
Korampallam, Tuticorin.

.. Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records connected with the Order dated 22.03.2017 made in Na.Ka.No.34812/N4/2015 on the file of the 1st respondent, quash the same and for consequential direction, directing the 1st respondent to re-fix the Guideline value for the properties covered under the above said order at the rate of Rs.600/- per Sq.Mt. and accordingly accept the Stamp Duty at the said rate for the Sale Deed in respect of the said property.

For Petitioner : Dr.Fr.A.Xavier Arul Raj,
Senior Counsel
for M/s.S.Zakir Hussain

For Respondents 1 & 2: Mr.P.P.Purushothaman,
Govt. Advocate

ORDER

Challenging the Order dated 22.03.2017 made in Na.Ka.No.34812/N4/2015 on the file of the 1st respondent and to quash the same with a consequential direction, directing the 1st respondent to re-fix the guideline value for the properties covered under the above said order at the rate of Rs.600/- per sq.mt. and accordingly accept the Stamp Duty at the said rate for the Sale Deed in respect of the said property, the present Writ Petition has been filed.

2. Learned Senior Counsel appearing for the petitioner submitted that the petitioner has purchased a vacant land to an extent of 96 Cents in Sq.meter 3884.94 from various owners who were residing at Kayalpatnam, Tuticorin District under a registered Sale Deed bearing Document Nos.2712 to 2720/2014 on 01.12.2014. When the guideline value of the property was originally Rs.750/- per sq.metre, it was revised to Rs.920/- w.e.f. 01.04.2012 and again, in the year 2014, it was revised to Rs.1500/- w.e.f. 06.11.2014. The said guideline value was fixed in respect of the properties in Sivankoil Street, whereas the property purchased by the petitioner is located at a distance of 200 meters away from Sivankoil Street, in a salty terrain near the sea and is also full of thorny bushes in low lying area. The yet another disadvantage faced by the land of the petitioner is that it has no access from Sivankoil Street or from any other road. The entire property has to be levelled by filling earth and road has to be newly formed that would definitely cause huge problem to the petitioner because the petitioner has to purchase earth from far away places by hiring out lorries. Due to this disadvantage, the petitioner placed before the 2nd respondent to revise the guideline value to Rs.647.49/- per sq.mt. and that was rejected. Therefore, the petitioner filed an appeal before the 1st respondent, namely, the Inspector General of Registration, Chennai, on 06.07.2015 not to confirm the guideline value of Rs.1500/- per sq.mt. in respect of her land. But the 1st respondent though admitted the fact that the petitioner's land is having several disadvantages, revised the guideline value from Rs.1,500/- to Rs.1450/- per sq.mt. The reduction was so minimal that the said revision has no relevance to the disadvantages admitted in the impugned order. Therefore, questioning the correctness of the impugned order, the petitioner has come to this Court.

3. The learned Senior Counsel for the petitioner further submitted that when the petitioner has purchased the property with several disadvantages mentioned supra, during the pendency of the appeal, the 1st respondent vide Circular dated 08.06.2017 has revised the guideline value by reducing 33% in respect of all properties to be registered throughout Tamil Nadu. The said downward revision of 33% comes into effect from 08.06.2017. The said benefit also, if extended, the grievance of the petitioner would be redressed.

4. Adding further, the learned Senior Counsel for the petitioner submitted that as it is a well settled legal position that appeal is the continuation of the suit, if any

scheme is introduced during the pendency of the appeal, that would also have effect on the pending proceedings. Therefore, applying the said ratio, the benefit of reduction of 33% of guideline value given in Circular dated 08.06.2017 may be extended to the petitioner. The learned Senior Counsel has also invited the notice of this Court to an order passed by a Division Bench of this Court in an unreported order in W.A. (MD) No.893 of 2017 dated 22.03.2018 (The Sub-Registrar, Natham and 2 others vs. Alagurani) holding that unless the referring officer had believed that there was a wilful under valuation of the market value of the property, reference under Section 47A(1) of the Indian Stamp Act cannot be made and this ratio has already been dealt with by a learned Single Judge of this Court in G.Mary Chellathai Vs. Tamil Nadu Inspector General of Registration and others reported in 2017 (4) LW 471.

5. In the present case, there is no any wilful under valuation. The petitioner is asking only the reduction of the guideline value on the basis of the disadvantages faced by him in the land-in-question which has already been given to one S.Zakir Hussain of the same locality by Proceedings dated 15.10.2015 of the Registration Department, it is pleaded.

6. The learned Senior Counsel for the petitioner also referring to the said Proceedings stated that when a document was registered on 22.3.2013 as Document No.992/2013, considering the fact that the said land was having various disadvantages like no access to main road, no street light, no nearby houses, although the guideline value per square metre was fixed at Rs.920/- per sq.mt. it was reduced to Rs.736/- per sq.mt. Therefore, since the land of the petitioner is also situated in the very same street and locality and he is facing the very same disadvantages, the case of the petitioner could not be discriminated as that would not pass the test of equality clause guaranteed under Article 14 of the Constitution of India. Further, Article 14 of the Constitution of India makes it clear that the State shall not deny equality or equal protection of law to any person. In the present case, when the petitioner and Mr.Zakir Hussain have purchased the lands in the same street, namely, Sivankoil Street, after granting the benefit of reduction of guideline value to Zakir Hussain, the same should be granted to the petitioner also.

7. A detailed counter affidavit and additional counter affidavit have been filed by the respondents.

8. Learned Government Advocate appearing for the respondents submitted that the sole premise on which the petitioner has come to this Court seeking advantage of the reduction of 33% of guideline value is based on G.O.Ms.No.49/CT

& Registration Department (J2) Department dated 08.06.2017 and the same is liable to be rejected since the Circular of the 1st respondent dated 08.06.2017 in No.25735/C1/2017, issued in pursuant to the said Government Order has clearly and carefully worded that the benefit of reduction of 33% and particularly, the guideline value can be given only to those documents registered from the date of issuance of the said circular based on G.O.Ms.No.49/CT & Registration Department (J2) Department dated 08.06.2017.

9. The learned Government Advocate appearing for the respondents further submitted that the Government of Tamil Nadu has reduced the guideline value up to 33% w.e.f. 09.06.2007 and in pursuance of the same, the 1st respondent issued Circular in No.25735/C1/2017 dated 08.06.2017. Since the said Government Order issued by the 1st respondent is also giving prospective effect and as such, the reduced value cannot be applied to the petitioner whose Sale Deed was executed on 01.12.2014. If the petitioner is allowed to avail the reduced guideline value, it will be a precedent and all the registrants whose documents were disposed of by the Collector, the 2nd respondent and the 1st respondent herein and also pending disposal of the Civil Miscellaneous Appeal before this Court under Sub-Section (10) of Section 47 of the Indian Stamps Act, 1899 will claim such concession.

10. This Court is unable to find any merit in the submission of the learned Government Advocate for the respondents for the reason being that when it is a well settled legal position that the appeal is only the continuation of the suit and useful reference can be made from the same, as such, the respondents having issued G.O.Ms.No.49/CT & Registration Department (J2) Department dated 08.06.2017, thereby reducing the guideline value to 33% w.e.f. 09.06.2017, the same cannot be applied only to those documents registered w.e.f. the date of issuance of the said Government Order, i.e. on 08.06.2017, but it has necessarily to be given to all those persons whose cases are pending in the Appeal Forum and also before this Court. Secondly, when the Writ Petition has been filed before this Court, a similarly placed person namely Zakir Hussain who purchased the land in the very same area, although the document was registered on 22.03.2017 bearing Document No.992/13, considering the fact that the land-in-question is facing some disadvantages namely, no access to the main road, absence of street light, situated in low lying area and salty terrain near the sea, surrounded with full thorny bushes, having given the benefit of reduction of 33% in the guideline value to the said Zakkir Hussain, the same cannot be denied to the petitioner who has also purchased the land in the very same area. Therefore, in my considered view, for these two reasons, the impugned order

is liable to be set aside.

11. In the result, the Writ Petition stands allowed and the Order dated 22.03.2017 of the 1st respondent is hereby set aside by extending the benefit of the Circular No.25735/C1/2017 dated 08.06.2017 of the 1st respondent to the land of the petitioner thereby granting 33% reduction in the guide line value on par with Mr.Zakkir Hussain. Further, it is made clear that since the matter is pending, the respondents cannot charge interest for belated payment. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
No.20 Santhome High Road,
Chennai-28.

2. The Special Deputy Collector (Stamps).
Korampallam, Tuticorin.

+1cc to the Government Pleader, S.R.No.99968

W.P.No.18116 of 2017

SAI(CO)
CS/16/12/2019