IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1892 of 2008
and M.P.No.1 of 2008

1.M.Mohamed Laffir (deceased)
2.Salima
(Appellants 3 and 4 brought on record as LRS of the deceased 1st appellant and second appellant recorded as LR of the deceased 1st appellant vide order of Court dated 19.12.2013 made in M.P.Nos.1 to 4 of 2013 in CMA.No.1892 of 2008).
.. Appellants

Vs.

1.The Inspector General of Registration,
Santhome, Chennai.

2.The District Revenue Officer (Stamps),
Chennai - 600 001.

3.The Sub-Registrar,
Periamet, Chennai - 600 003.
.. Respondents

PRAYER :

Civil Miscellaneous Appeal is filed under Section 47 A (10) of Indian Stamp Act, 1899 read with rule 9(5)(a) of the Tamil Nadu Stamp (Prevention of undervaluation of Instruments) Rules 1968, against the order of the 1st respondent dated 04.02.2006, bearing reference PA.Mu.No.49469/N.4/2005 (in exercise of his powers under Section 47-A(5) of the Indian Stamp Act, 1899
.

For Appellants : Mr.K.Ashok Kumar

For Respondent : Mr.T.M.Pappiah
Special Government Pleader
(Registration)

J U D G M E N T

The appellant herein preferred the Civil Miscellaneous Appeal under Section 47 A (10) of Indian Stamp Act, 1899 read with rule 9(5)(a) of the Tamil Nadu Stamp (Prevention of undervaluation of Instruments) Rules 1968, challenging the order, bearing reference PA.Mu.No.49469/N.4/2005 (in exercise of his powers under Section 47-A(5) of the Indian Stamp Act, 1899, dated 04.02.2006 on the file of the Inspector General of Registration.

2. The Substantial question of law involved in this appeal:

> "(i) The Appellate Authority fell in error in confirming the order of the adjudicating authority without any discussion much less giving any reasons whatsoever as to how and why the figure of Rs.2780/- per sq.ft arrived at by the adjudicating authority, deserves to be sustained?;
>
> (ii) The Appellate Authority erred in not even adverting to the stand of the appellant that the superstructure in the property concerned was completed in 1971-72 and its value after 32 years cannot be anything more than Rs.75/- per sq.ft.?;
>
> (iii) The appellant has very clearly raised and pointed out a specific case where a corporate entity had purchased a property in 2003 in the same vicinity for which the guideline value of Rs.4656/- per sq.ft., was reduced to Rs.2,700/- per sq.ft. The appellant had even filed a news report in this regard as an annexure, to buttress this ground, but there is absolutely no discussion whatsoever in this regard?."

3. The learned counsel for the appellant submits that the first respondent without following the natural justice, without appreciating the fact that the said property is not situated in main place, has erroneously fixed Rs.2700/- per sq.ft and also failed to appreciate depreciate value of the superstructure and erroneously fixed Rs.75/- per sq.ft.
Hence, the appeal.

4. Per contra the learned counsel for the respondent submits that the prevailing guidelines value in the year 2003 with regard to the property concerned in Door No.84C, Old No.20, S.No.432/2015 and 432/16 with an extent of 6218 sq.ft is Rs.2930/- per sq.ft. But the appellant purchased the property by fixing Rs.965/-, as if comes under valuation. According to the original value of the property at the time of purchase, the authorities issued notice under Section 47(A) (1) of the Indian Stamp Act.

5. On perusal of the records it reveals that on receipt

of the notice , the appellant has appeared and submitted his submissions with regard age and value of the superstructure and justify the location of the properties. But on considering the objections and the factual and legal positions the Authority fixed Rs.2,780/- per sq.ft., based upon the market value prevailing at the time of his purchase. As per the contention of the appellant that at the time of his purchase the property in the year 2003 at Rs.965/- per sq.ft, but he has not produced any documents to justify the said value. So, he failed to prove that at the time of his purchase the value of the property was Rs.965/- per sq.ft with sufficient material evidence. But as per the guideline value the prevailing market value was Rs.2930/- per sq.ft and the same is proved by the authorities. Therefore, the objection raised by the appellant that the prevailing market value at the time of purchase is Rs.965/- per sq.ft is not sustainable one. But the authorities rightly fixed Rs.2930/- per sq.ft. based upon the guideline value prevailing at the time and also considering the locality, where the property is situated.

6. With regard to another objection raised by the appellant that the depreciation value of the building is 32 years old and the same is not considered by the authority but it is seen that the respondents based upon the PWD valuation fixed Rs.75 per sq.ft for the superstructure: To disprove this aspect there is no independent evidence on the side of the appellant.

7. Furthermore, he was given opportunity before fixing the rate per sq.ft and the objections were already considered by the authority and fixed Rs.75/- per sq.ft and also fixing the building cost at Rs.22,65,644/-. Apart from that other facts would also been taken into consideration before fixing the value of the property per sq.ft.

8. Admittedly, the property is situated in Nichols road and the southern part of the road in some area and the road also emerge the fly over. So, the existence of the properties surrounding in dispute also taken into consideration by the authorities before fixing the valuation. Therefore the authorities rightly valued the property at Rs.2930/-. Hence, the objection raised by the appellant is unsustainable one.

9. The Civil Miscellaneous Appeal is dismissed and the interest pending for the litigation period is ordered to be exempted. The appellant is directed to pay the amount as claimed in the impugned notice dated 04.02.2006, within a period of

three months from the date of receipt of a copy this order. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
   Santhome, Chennai.

2. The District Revenue Officer (Stamps),
   Chennai - 600 001.

3. The Sub-Registrar,
   Periamet, Chennai - 600 003.

+1cc to Mr.Mr.K.Ashok Kumar, Advocate, S.R.No.21259

C.M.A.No.1892 of 2008

GMR(CO)
CT(11/08/2021)