IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :26.02.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1255 of 2013

1.Mohammed Sardar
2.M.Rahman Basha

.. Appellants

Vs.

1.The Chief Controlling Revenue Authority,
(Inspector General of Registration),
Santhome, Chennai - 600 004.

2.The Special Deputy Collector (Stamps)
Vellore and Thiruvannamalai Districts,
Collectorate, Sathuvachari,
Vellore - 632 009.

3.The Sub Registrar,
Ambur - 635 802,
Vellore District.

.. Respondents

PRAYER : Civil Miscellaneous Appeal is filed under order 43 Rule (1) of Civil Procedure Code r/w Sub Section 10 of Section 47A Indian Stamp Act read with Sub Rule 5(a) of Rule 9 of the Tamil Nadu Stamps (Prevention of under Valuation of Instruments Rules) against the order of the Chief Controlling Revenue Authority (Inspector General of Registration), Chennai - 600 004. dated 20.06.2012 in D.Dis.No.47671/N3/2010 served on the appellants 11.07.2012, against the order of the Special Deputy Collector (Stamps), Vellore, dated 14.08.2008 in C.Pa.No.767/06 AMV.

For Appellants : Mr.K.Sivasubramanian

For Respondents : Mr.T.M.Pappaiah
Special Government Pleader for R1
(Registration)
No Appearance for R2 and R3

J U D G M E N T

The appellants preferred this appeal against the order of the learned Chief Controlling Revenue Authority (Inspector General of Registration), Santhome, Chennai, dated 20.06.2012, in D.Dis.No.47671/N3/2010 served on the appellants 11.07.2012, against the order of the learned Special Deputy Collector (Stamps), Vellore, dated 14.08.2008 in C.Pa.No.767/06 AMV. The respondent also contested in this appeal.

2. Point for Consideration:

Whether the notice issued by the Inspector General of Registration, claiming at Rs.70/- per sq.ft, with regard to the properties belong to this appellant in S.Nos.8/2, 6/5, 6/1A, 6/1B1, 6/9A, 6/1B2, 6/9B2, 2/7A, 5/1A, 5/1B with an extent of 8.95 acres registered under sale deed for document No.1557/2006 by issuing 47A(1) remanding the Deficit Court Fee is an unregistered and arbitrary one.

3. The learned counsel for the appellant submits that they entered into the sale agreement for a sum of Rs.5,00,000/- to purchase the scheduled mentioned properties from its original vendor and paid the part amount, thereafter, their vendor failed to execute the sale deed as per the agreement. So, he filed a suit for specific performance in O.S.No.104 of 2004 and obtained decree on the file of Subordinate Court, Tirupattur, Vellore District. Thereafter, Execution Petition in E.P.No.125 of 2005 was filed and the sale deed was executed through Court on 28.04.2006. But the first respondent without considering the execution of the sale deed through Court issued 47A(1) notice by fixing at Rs.70/- per sq.ft erroneously. Aggrieved by that he preferred this appeal.

4. Pet contra, the learned Government Pleader submits that the appellant was obtained ex-parte decree and underestimated value of the property purposely and they paid insufficient stamp fee which caused revenue loss to the Government. So the first respondent after due enquiry and considering the prevailing guidelines value in the year 2006, rightly fixed Rs.70 per sq.ft and issued 47A(1) to claim Deficit Stamp Fee from this appellant. So he prays to dismiss the appeal as no merits.

5. At the time of the arguments, the learned counsel for the appellant submits that the sale deed is obtained through Court of law as per the decree passed in civil suit for the value mentioned in that agreement is sufficient and the Government has no power to collect Deficit Stamp Fee through 47A(1) proceedings.

6. The learned counsel for the respondent submits that even though the sale deed executed through Court of law, it should be valued as per the prevailing guidelines value and not the sale consideration mentioned in the documents as per the sale deed. The extension of the properties comes more than eight acres, but sale consideration was fixed only at Rs.5,00,000/-. But on a perusal of the survey report relating to the guidelines value of the property, the notice was issued by the first respondent under 47A(1), wherein it clearly mentioned that the survey number is relating to those properties and guidelines value is fixed at Rs.5,00,000/- per acre. Based upon that the amount is fixed at Rs.70/- sq.ft. by the first respondent. Hence, the above said value fixed by the first respondent based upon the guidelines value prevailing in the year 2006.

7. There is no evidence on the side of the appellant that the entire eight acres fetch the value of Rs.5,00,000/- in the year 2004-2006. Moreover, the appellant obtained exparte decree, as rightly pointed out by the Government Pleader, the decree is tainted with collusiveness between parties. Even that Court decree also to be registered as sale deed based upon the prevailing market value of that time. On the other hand, the first respondent proved that in the year 2006, one acre is valued 5,00,000/- as per the guidelines value prevailing at that time.

8. Accordingly, per sq.ft comes to Rs.70/- is justifiable one. Therefore, there is no merit in this appeal. The appellant is directed to pay the Deficit Stamp Fee along with accrued interest in accordance with law, excluding the pending litigation period and the appellant is directed to pay Rs.70/- per sq.ft. within a period of two months from the date of receipt of this judgment.

9. Accordingly, this Civil Miscellaneous Appeal is dismissed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To,

1.The Chief Controlling Revenue Authority,
(Inspector General of Registration),
Santhome, Chennai - 600 004.

2.The Special Deputy Collector (Stamps)
Vellore and Thiruvannamalai Districts,
Collectorate, Sathuvachari,
Vellore - 632 009.

3.The Sub Registrar,
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Vellore District.

Copy to:
The Section Officer, VR Section, High Court,Madras.

C.M.A.No.1255 of 2013

A.SK(15.04.2021)