IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1964 of 2015
M.P.Nos.1 & 2 of 2015 & C.M.P.No.11772 of 2016

M.Muthukumaran ... Appellant

vs.

1.The Chief Controlling Revenue Authority & Inspector General of Registration, No.100, Santhome High Road, Chennai-600 028.

2.The District Revenue Officer (Stamps), District Collectorate's Compound, Coimbatore-641 018.

3.The Sub-Registrar of Assurance, Vadavalli, Western Side of CTC Depot, Marudhamalai Adivaram, Vadavalli, Coimbatore-641 041. ... Respondents

PRAYER : Civil Miscellaneous Appeals filed under Section 47A(10) of the Stamp Act against the order passed in D.Dis.No.42153/N2/2014 dated 17.06.2015 received by the appellant on 24.06.2015 on the file of the Chief Controlling Revenue Authority-cum-Inspector General of Registration, Chennai against the orders of District Revenue Officer (Stamps), Coimbatore dated 05.08.2014 made in No.253/C1/2014.

For Appellant : Mr.D.Ravindranathan

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

J U D G M E N T

The order dated 17.06.2015 passed by the first respondent under Section 47-A(5) of the Indian Stamps Act is under challenge in the present Civil Miscellaneous Appeal.

2. The learned counsel appearing on behalf of the appellant mainly contended that the assessment made by the respondent per se is unlawful and erroneous. The determination of market level based on certain presumption and assumption cannot be considered as in accordance with law. The learned counsel appearing on behalf of the appellant questioned the reference made under Section 47 A(1) of the Indian Stamps Act. The reference became unnecessary as the revenue reference clearly shows that the land in question is a wet agricultural land and therefore, the very reference is unsustainable. As per the Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules, 1968, the registering officer may elicit from the parties concerned any information bearing on the subject and call for and examine any records kept with any public officer or authority. In the present case, when the appellant has produced the documents to establish that the property in question is a wet agricultural land, there is no reason whatsoever to make a reference under Section 47A(1) of the Indian Stamps Act. Thus, the order is liable to be set aside. It is contended that the surrounding areas were not considered properly and the facts and circumstances were also not considered by the authorities. Thus, the order is bad-in-law and the appeal is to be allowed.

3. The learned Special Government Pleader disputed the contention by stating that the assessment has been made in accordance with rules in-force. The market level of the property is assessed based on the factual aspects prevailing in that locality and by conducting an inspection and based on the reports submitted by the competent authority. The respondent contended that the patta, chitta and adangal would clearly show that the property in question is not a wet agricultural land. It is surrounded by various developments and there is an access to the main road. The first respondent, at that time of considering the appeal filed by the appellant, had sought for an inspection report from the District Registrar, Coimbatore for the purpose of determination the valuation of the property. The District Registrar, in its inspection report, categorically stated that it is a dry land and therefore, the said land cannot be termed as wet land.

4. Relying on the counter affidavit filed by the respondent, the learned Special Government Pleader reiterated that the appellant had suppressed the fact with regard to the exact location of the property in the Sale deed by concealing the fact that it is on the main thar road and has sought to underplay it without mentioning the boundaries and merely mentioning the S.F.No. so as to mislead it as a mere agricultural land. The District Registrar in pursuance to the direction given by the 1st respondent had noted that on the Eastern side of the property, there is a main thar road leading to Thudiyalur, a

developing area in Coimbatore. Irrespective of the fact that no one end there is a cremation ground which is not a notified ground.

5. Taking note of these factors, the second respondent fixed the value at Rs.235/- per square feet which would be proper. Further, a regular house site in that area is Rs.400/- per square feet. Considering the fact that the value has been fixed at Rs.275/- per square feet, the Inspector General of Registration further granted concession of 20% and fixed the value as Rs.220/- per square feet. This being the consideration already extended in favour of the appellant, there is no error whatsoever to interfere with the findings of the order impugned.

6. This Court is of the considered opinion that with reference to the determination of market level, the Courts are expected to ascertain whether the principles for determination of market level has been followed by the competent authorities or not? Rule 5 of the Tamil Nadu Stamp [Prevention of Undervaluation of Instruments] Rules, 1968 enumerates the Principles for determination of market value which reads as under:

> "The Collector shall, as far as possible, have also regard to the following points in arriving, at the provisional market value,—
> (a) In the case of lands—
> (i) classification of the land as dry, manavari, wet and the like;
> (ii) classification under various tarams in the settlement register and accounts;
> (iii) the rate of revenue assessment for each classification;
> (iv) other factors which influence the valuation of the land in question;
> (v) points, if any, mentioned by the parties to the instrument or any other person which requires special consideration;
> (vi) value of adjacent lands or lands in the vicinity;
> (vii) average yield from the land, nearness to road and market, distance from village site, level of land, transport facilities, facilities available for irrigation such as 18 tank, wells and pumpsets;
> (viii) the nature of crops raised on the land; and
> (ix) the use of land, domestic, commercial, industrial or agricultural purposes and also the appreciation in value when an agricultural land is being converted to a residential, commercial or an industrial land.1

7. With reference to the above rules, the classification of the land is to be considered. Other factors which influence the valuation of the land in question are also to be considered and the value of adjacent lands or lands in the vicinity is to be considered.

8. Let us now consider whether these rules are followed while determining the market value in the present case. A perusal of the records reveals that the classification of the land was considered by the competent authorities. Though the appellant has stated that it is a wet land, the District Registrar during the inspection found that it is a dry land. Further, the circumstances prevailing adjacent to the properties in question were also considered and the other factors which influence the valuation of the land were also considered. The other access to the main roads and buildings constructed and the developments made, the value fixed for the adjacent land were also considered. It is mentioned that in respect of plot, Rs.400/- per square feet was fixed. Considering the other factors, the District Registrar himself fixed Rs.275/- per square feet. The first respondent/Inspector General of Registration has further reduced the market level from Rs.275/- to Rs.220/-. This being the concession already extended in favour of the appellant, there is no reason whatsoever to interfere with the findings with reference to the determination of the market value which is in accordance with the provisions of the rules cited supra.

9. This being the facts and circumstances, this Court do not find any perversity or infirmity in determining the market level of the subject property. Accordingly, the order impugned dated 17.06.2015 passed by the first respondent stands confirmed and the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssb
To

1.The Chief Controlling Revenue Authority &
Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2.The District Revenue Officer (Stamps),
District Collectorate's Compound,
Coimbatore-641 018.

3.The Sub-Registrar of Assurance,
Vadavalli, Western Side of CTC Depot,
Marudhamalai Adivaram, Vadavalli,
Coimbatore-641 041.

+1cc to Mr.D.Ravindranathan, Advocate Sr.17407
+1cc to the Government Pleader Sr.17570

C.M.A.No.1964 of 2015

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srg 19/04/2021