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.1986 of 2015
C.M.P.No.21086 of 2017 & M.P.No.1 of 2015

S.Ponnusamy ... Appellant

vs.

1.The Inspector General of Registration,
and Chief Controlling Revenue Authority
No.120, Santhome High Road,
Chennai-600 028.

2.The Sub-Registrar,
Mohanur Sub-Registrar Office,
Mohanur,
Namakkal Taluk and District. .. Respondents

PRAYER : Civil Miscellaneous Appeals filed under Section 47(A) of the 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 passed by the first respondent in his proceedings in letter No.30706/c2/c1/2008 dated 26.06.2015 served on the appellant by the second respondent on 22.07.2015.

For Appellant : Mr.C.Jagadish

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

J U D G M E N T

The order dated 26.06.2015 passed by the first respondent under Section 47 A(6) of the Indian Stamps Act is under challenge in the present Civil Miscellaneous Appeal.

2. The learned counsel appearing for the appellant contended that the first respondent has not complied with the directions issued by this Court in C.M.A.No.3666 of 2012 vide order dated 04.02.2013. As such, the order passed by the first respondent is not-est in law and without any application of mind. The first respondent has mechanically passed the order without properly appreciating the sale deeds registered as document Nos.932 & 933 of 2007 registered on the file of the second respondent herein. Therefore, the impugned order is

liable to be scrapped.

3. The learned Special Government Pleader appearing on behalf of the respondent disputed the contention by stating that the determination of value is done in this case with reference to the facts and circumstances. If any mistake was there on the part of the Authority in determining the market value, the same would not defeat the Authorities from re-assessing the market value for the purpose of execution of the sale deeds. In other words, it is contended that a mistake cannot be cited as a precedent and the determination is to be done with reference to the Rules in-force. In the present case, all the surrounding circumstances as well as the developments already made in nearby residence are taken into consideration. Accordingly, the market value is fixed. Thus, there is no irregularity and the appeal is to be dismissed.

4. Considering the documents, this Court is of the opinion that the interest of the Statute revenue is protected by the Courts. Courts would not interfere in such revenue matters in a routine manner. Only on exceptional circumstances, if there is any major irregularity or illegality or in violation of the Rules, then alone, the Court can interfere with such determination of market value and not otherwise. Determination of market value is the subject to the satisfaction of the authorities competent and by following the procedures contemplated under the Rules. Once the Rules are violated, then the Courts are empowered to interfere regarding the determination of market value and the Courts cannot exercise or function as an expected body. Therefore, the determination is to be scrutinized with reference to the facts and circumstances and Rules in force. This being the guiding principles, with reference to the determination of market value, it is relevant to consider the Section 5 of the Tamil Nadu Stamp [Prevention of Undervaluation of Instruments] Rules, 1968. Rule 5 contemplates that Principles for determination of market value and Sub Clause (a) denotes in the case of lands and the same 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.

5. The question arouse whether the competent authority considered the classification of land, the rate of revenue assessment for each classification, and other factors which influence the valuation of the land in question, value of adjacent lands or lands in the vicinity;

6. Therefore, it is not only the question of considering the value of the adjacent land but also considering the value of the appellant's property. The competent authorities are empowered to consider the nature of the land and the prevailing situation in that locality. The facts and circumstances are to be considered based on the inspection report. The Court cannot interfere with the determination of market value in a mechanical manner.

7. The determination cannot be made through guess work. It is to be done with reference to the actual prevailing situation in respect of the property in question. Thus, whether such an exercise is done by the Authorities which would be the question determined by the Courts. In the present case, the Inspection report of the Department was considered by the Inspector General of Registration. The finding in this regard reveals that the subject property is situated in Mohanur-Vellore Road which is 0.25 km from the Bus stand. Though it remains as an agricultural land, there is no residential building adjacent to the land. The land situates nearby the bus stand and the Special Deputy Collector (Stamps), Salem with reference to the other document in Document No.1616 of 05 etc. fixed a sum of Rs.12,00,000/- per acre. Taking note of these factors, the First respondent/Inspector General of Registration has fixed a sum of Rs.7,00,000/- per acre.

8. Regarding such fixation, the Courts have to verify whether the principle of reasonableness has been adopted or not. It may not be possible for the Authorities or the Courts to arrive at a definite conclusion with reference to the market value of the

property in question. Under these circumstances, if the doctrine of reasonable is adopted, then the Courts would be constrained in interfering with the findings of the Apex Court. In the present case, the Special Deputy Collector (Stamps), Salem, with reference to the other documents, has fixed the market value as Rs.12,00,000/-. With reference to some other documents in Document Nos.932/07, 933/07, a sum of Rs.5,00,000/- was fixed per acre. When two different market values are placed before the Inspector General of Registration, the Inspector General of Registration considered the other facts and circumstances and fixed a sum of Rs.7,00,000/- per acre as market value .

9. This Court is of the considered opinion that this would be possible way to determine the market value as the owners of the property may not get satisfaction in either way of fixing the market value. Thus, this Court is of the opinion that the market value fixed by the Inspector General of Registration is by following the procedures contemplated under the Rules. Therefore, this Court is not inclined to interfere with the findings. Accordingly, the order impugned dated 26.06.2015 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 Inspector General of Registration,
and Chief Controlling Revenue Authority
No.120, Santhome High Road, Chennai-600 028.

2.The Sub-Registrar,
Mohanur Sub-Registrar Office,
Mohanur, Namakkal Taluk and District.

+1cc to Mr.C.Jagadish, Advocate, S.R.No. 17077
+1cc to the Government Pleader, S.R.No. 17577

JP II(CO)
GN(16/06/2021)