IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.Nos. 1478 to 1487 of 2016

C.M.A.No. 1478 of 2016

R.P.Darrmalingam ..Appellant in all CMAs

Vs

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

2.The District Revenue Officer(Stamps)
O/o.The District Collector,
5th Floor, M.Singarvelar Maligai,
No.32, Rajaji Road, Chennai - 1.

3.The Sub Registrar,
Guduvanchery. ..Respondents in all CMAs

CommonPrayer in C.M.A.No.1478 to 1487 of 2016:
Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899 r/w Rule 9(5) of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments Rules, 1968) to set aside the proceedings initiated by the respondents under Section 47A of the Indian Stamp Act, 1899 in respect of Document No.9436,9437,9438,9439,9440,9444,9445,9446,9447 & 9448 of 2008 on the file of SRO, Guduvancherry, the third respondent herein, the order dated 05.04.2012, in CMA 1478 to 1483,1486 & 1486/2016 order dated 10/04/2012 in CMA1484 & 1485/2016 passed by the District Revenue Officer (Stamps), Chennai, 2nd respondent herein, vide Proceeding Na.Ka.Cee.Pa.No.161/08,162/08 A5,163/08 164/08,165/08,170/08,171/08,172/08 A4,173/08 & 174/08 and the order dated 03.06.2016 passed by the Chief Controlling Authority the first respondent herein.

For Appellant
(in all CMAs) : Mr.M.Vivekanandan

For Respondents
(in all CMAs) : Mr.T.M.Pappiah
Special Government Pleader

COMMON JUDGMENT

The order passed by the first respondent dated 03.06.2016 is under challenge in the present civil miscellaneous appeals.

2. The action was initiated under Section 47A of the Indian Stamp Act for determination of market value as the authorities found that the documents registered were undervalued. The District Collector, Stamps conducted the field inspection and considered the market value of the adjacent lands or in the nearby vicinity and taking note of the classification of the lands, fixed the market value for the subject property. Thereafter, the appellants filed the appeals under sub-clause 5 to Section 47A beyond the period of limitation contemplated. The appeals were rejected and thus preferred writ petition in W.P.Nos. 28979 to 28989 of 2015. This Court passed order on 29.09.2015 granting a further period of two months for filing the appeals. Pursuant to the orders passed by this Court, the appellants filed the appeal and the said appeals were dealt with by the Inspector General of Registration. The findings of the first respondent reveals that the orders of the High Court granting a further period of two months was taken into consideration and the appellants appeared for personal hearing before the first respondent.

3. On behalf of the appellants, his counsel appeared and placed his grounds. Considering the grounds raised, the first respondent passed an order stating that the assessment was made by following the procedures contemplated. The District Revenue Officer, Stamps, determined the market value of the subject property and directed the appellant to pay the deficit stamp duty by passing final orders and the said orders were communicated to the appellants through registered post. Though the said orders were received by the appellants, they have not chosen to file appeals within 60 days as contemplated under the provisions of the Act.

4. In view of the fact that no appeals were filed by the appellants against determining the market value, the authorities competent initiated recovery proceedings under Section 48 of the Indian Stamp Act. However, actions were initiated under the

Revenue Recovery Act for the recovery of deficit stamp duty. Section 48 of the Act is extracted hereunder:-

> "Section 48 Recovery of duties and Penalties - All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue."

5. Accordingly, the deficit stamp duty to be paid by the appellants was determined along with interest as per the statute. The Recovery Proceedings were already initiated under Section 5 of the Revenue Recovery Act and under those circumstances, the Inspector General of Registration, arrived at a conclusion that the appeals under Section 47A filed are not entertainable as the orders determining the market value were subject to Section 48 of the Act and the recovery proceedings were initiated under the Revenue Recovery Act.

6. It is needless to state that the pendency of the proceedings under the Revenue Recovery Act is not a bar for the competent authority to decide the appeal on merits and in accordance with law. However, in the present cases, instead of deciding the matter on merits, the appeals were dismissed merely on the ground that the recovery proceedings were already initiated. Mere initiation of the recovery proceedings would not deprive the aggrieved person from getting his appeal decided on merits. Thus, the first respondent Inspector General of Registration has committed an error in not deciding the appeals on merits and in accordance with law. Once the High Court extended the period of limitation for preferring the appeals, then the authority competent is expected to consider the appeals on merits and pass orders by assigning reasons.

7. Contrarily, the impugned orders in the present appeals are passed without adjudicating the merits but merely passed on the ground that the recovery proceedings were already initiated. This being the finding for the rejection of appeals, this Court is of the considered opinion that the appeals are to be remanded back to the first respondent for the purpose of fresh adjudication and decide the issue on merits and in accordance with law and by affording opportunity to all the parties concerned. In this view of the matter, the impugned orders passed by the first respondent in all these appeals stand set aside and the appeals are remanded back to the first respondent for fresh adjudication on merits and the first respondent shall dispose of the appeals by affording opportunity to all the parties concerned and pass a speaking order.

8. In view of the above, the civil miscellaneous appeals stand allowed. No costs. Consequently, connected C.M.P.Nos. 11320 to 11329 of 2016 are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssm

To:

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+1 CC TO GOVT PLEADER IN SR.17579

C.M.A.Nos. 1478 to 1487 of 2016

GSM(CO)
RG.16.04.2021