IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

C.M.A.No.2884 of 2013
and
M.P.No.1 of 2013

M/s.V.M.R.Textiles Private Limited,
Represented by its Director,
R.Sivanandam,
Having Registered Office at
No.10, Theeran Chinnamalai Street,
Ashokpuram,
Erode - 638 004. ... Appellant/Respondent

Vs.

The Tamil Nadu Inspector General of Registration-
cum-Chief Controlling Revenue Authority,
No.120, Santhome High Road,
Chennai - 600 028.
... Respondent/suomotu Complainant

Prayer : Civil Miscellaneous Appeal filed under Section 47-A(10) of the Indian Stamp Act, 1899, to call for the records in Pa.Mu.No.27798/T2/Vu.1/2011, dated 27.06.2013, on the file of the Tamil Nadu Inspector General of Registration-cum-Chief Controlling Revenue Authority, Chennai-28 and quash the same.

For Appellant :Mr.K.Selvaraj

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

J U D G M E N T

The order impugned was passed by the respondent under Section 47-A(6) of the Indian Stamp Act, 1899, in proceedings dated 27.06.2013. A suo motu review was initiated by the Inspector General of Registration based on the discrepancies found in the audit report with reference to the under valuation of the documents registered by the appellant company. Admittedly, the sale deed was executed by the appellant on 09.06.2010 and the sale was done by the Recovery Officer under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act" for brevity). The sale certificate was issued by the Authorised Officer appointed in terms of the SARFAESI Act. The audit report raised a question regarding the under valuation of the document registered with reference to the subject property and the respondent/Inspector General of Registration initiated a suo motu revision under Section 47-A(6) of the Indian Stamp Act.

2.The learned counsel appearing on behalf of the appellant mainly contended that the appellant paid the stamp duty as charged by the Sub-Registrar and also the difference amount as per the orders of the Special Deputy Collector (Stamps). Thus, further suo motu revision is unwarranted and the respondent has not provided sufficient opportunity as contemplated under the Sub-Clause (8) of Section 47-A enabling the appellant to defend his case.

3.The learned counsel appearing for the appellant reiterated that there was no machinery in the premises of the appellant which was purchased under the SARFAESI Act. The details given in the impugned order are incorrect and the first notice was not received by the appellant and on receipt of the 2nd notice, the appellant appeared in person and defended his case before the respondent. It is contended that the fixation of market value was done not in accordance with the provisions of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. Thus, the order impugned is liable to be scrapped.

4.The learned Special Government Pleader appearing for the respondents objected the said contentions by stating that the procedures contemplated are scrupulously followed by the respondent on initiation of suo motu revision proceedings under Section 47-A(6) of the Indian Stamp Act. The under valuation was noticed from the audit report and it was huge in nature, and therefore, the respondent initiated suo motu proceedings. When the irregularity is to the huge magnitude, the authority is empowered to institute suo motu proceedings under Sub-Clause 6 of Section 47-A of the Indian Stamp Act. Thus, there is no irregularity in initiation of suo motu proceedings. Notice was issued by the respondent on 23.08.2012. However, there was no reply from the appellant. Again, a notice was issued on 07.06.2013 stating that personal enquiry was scheduled to be held on 24.06.2013. The appellant appeared for the personal hearing and at that point of time, he has not pleaded that the earlier notice was not received by him. There was no specific objection in writing stating that the appellant had not received the earlier notice dated 23.08.2012. In the absence of any such objections during the relevant point of time, the contention of the appellant at later point of time that he had not received the notice cannot be trusted upon. Thus, the fact remains that the first notice was not responded by the appellant and the appellant appeared for the personal hearing before the Inspector General of Registration and produced the sale certificate and other documents as well as the stamp duty already paid on the sale deed executed.

5.Considering the facts and circumstances and based on the enquiry report, the respondent arrived at a conclusion that the stamp duty as well as the registration charges are not paid in accordance with the market value prevailing and fixed the same as Rs.2,60,000/- for one acre. Though machineries were found in the textile premises, the market value was not properly assessed by the original authorities. The Inspector General of Registration noticed all these irregularities and arrived at a conclusion that the market value was not properly fixed, and accordingly, revised the market value based on the factual details and with reference to the valuation.

6.Let us now consider the provisions of the Indian Stamp Act and the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. Section 47-AA of the Indian Stamp Act contemplates the constitution of Valuation Committee, which enumerates that the State Government shall, by notification, constitute a Valuation Committee under the Chairmanship of Inspector General of Registration and such other member as may be specified for estimation, publication and revision of market value guidelines of properties in any area in the State at such intervals and in such manner as may be prescribed, for the purpose of Section 47-A. Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, enumerates the principles for determining the market value and Rule 5(a) deals with lands, which enumerates the materials to be taken into consideration by the authorities competent and the same reads as follows :

"5. ... (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 account;

(iii) the rate of revenue assessment for each classification;

(iv) other facts 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 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.]"

7.Pursuant to the above Rules, the Inspector General of Registration considered the classification of the land and other factors which influence the valuation the land as well as the value of the adjacent lands or the lands in the vicinity. All these factors were considered with reference to the Rules in force. When the subject property is valuable and textile company situates in the subject property and machineries were also found, the valuation is to be done with reference to all these factors and the irregularities committed by the original authorities were identified in the audit report and based on the audit report, a suo motu revision was initiated, and therefore, this Court do not find any perversity or infirmity as such with reference to the revision of market value determined by the Inspector General of Registration, who directed the appellant to pay the deficit stamp duty as well as registration charges. Thus, the appellant is liable to pay the deficit stamp duty and registration charges as determined in the impugned order.

8.Accordingly, the impugned order, dated 27.06.2013, passed by the respondent, stands confirmed and consequently, the Civil Miscellaneous Appeal is dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To
The Tamil Nadu Inspector General of Registration-
cum-Chief Controlling Revenue Authority,
No.120, Santhome High Road,Chennai - 600 028.

+1 cc to Government Pleader, Sr No.18463

C.M.A.No.2884 of 2013

AAB(CO)
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