IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

C.M.A.No.972 of 2015
and
M.P.No.1 of 2015

1.N.R.Nithya
2.R.Snekaa ... Appellants/Appellants

Vs.

1.The Tamil Nadu Principal Revenue Controller
and Inspector General of Registration,
Having office at Mylapore,
Chennai - 4.

2.The District Revenue Officer (Stamps)
Office of the Collector of Coimbatore,
Coimbatore - 18.

3.The Joint Sub Registrar-I,
Gobichettypalayam,
Erode District. ... Respondents/Respondents

[Cause title accepted vide order of Court
dt. 23.04.2015 made in M.P.No.1 of 2015
in C.M.A.SR.No.13215 of 2015]

Prayer : Civil Miscellaneous Appeal filed under Section 47-A(10) of the Indian Stamp Act, 1899, to set aside the order passed by the Tamil Nadu Principal Revenue Controller cum Inspector General of Registration cum Appellate Authority under the Indian Stamp Act 1819 in proceedings bearing Reference No.9864/N2/2013 dated 12.12.2014 and confirming the orders of the 2nd respondent passed in Mu.Pa.No.128/09 dated 30.10.2012 and thereon consequently direct the respondents accept the market value of the property depicted in the document and thereon release the same.

For Appellants : Mr.A.Palaniappan

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

J U D G M E N T

The order dated 12.12.2014 passed by the 1st respondent under Section 47-A(5) of the Indian Stamp Act, 1899, is under challenge in the present Civil Miscellaneous Appeal. The sale deed executed on 27.09.2011 is under question.

2.The learned counsel appearing for the appellants made a submission that the competent authorities have not applied their mind with regard to the factual materials prevailing in respect of the subject property. The initiation of proceedings under Section 47-A of the Indian Stamp Act itself is untenable in view of the fact that the authorities proceeded based on irrelevant consideration and had given a finding that the property has got proximity of development in future and had arrived the value of the property excessively beyond the actual market value of the property and the said assessment is absolutely baseless. The authorities failed to consider the adjacent property which was valued lesser than the value made by the appellant. Thus, the order impugned is liable to be scrapped.

3.The learned Special Government Pleader appearing for the respondents objected the said contention by stating that all relevant factors as well as the materials available on record were considered by the competent authorities while assessing the market value of the property. As per the order passed by the competent authority, the market value is fixed as Rs.160 per sq.ft., which itself is lesser, taking note of the fact that the property situates at 3 km from Gobi Town, more specifically, at the road proceeding to Nagarpalayam. Therefore, the property is valuable and consistent developments are found in that locality. The subject property is surrounded by residential plots, and on the either side, the lands are under cultivation. Access roads are available and the entire area is surrounded by greeneries and it is a healthy area. Considering all these factors and taking note of the actual market rate prevailing, the authorities competent fixed the value as Rs.160/- per sq.ft.

4.Heard the learned counsel on either side and perused the materials available on record.

5.The test to be applied is whether the authorities competent have followed the principles under Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. Rule 5 contemplates the principles for determination of market value. Accordingly, the Collector shall, as far as possible, have also regard to the following points in arriving at the provisional market value. 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.]"

Sub-Clause (iv) of Rule 5(a) denotes the other facts which influence the valuation of the land in question. Sub-Clause (vi) of Rule 5(a) enumerates the value of adjacent lands or lands in the vicinity. The rate of revenue assessment for each classification is to be considered including the classification of the land.

6.A question arises whether these factors were taken into consideration by the authorities while passing the impugned order. A perusal of the impugned order reveals that the surrounding circumstances as well as the market value prevailing in the locality were clearly considered by the authorities competent, and the findings in this regard as referred above reveal that the authorities have taken note of all those material factors. Also, the registrations done in respect of adjacent lands or the lands in the nearby vicinity were also taken into consideration. When all these factors were taken into consideration and the valuation of the subject property was fixed as Rs.160/- per sq.ft., this Court do not find any infirmity or perversity as such.

7.Even the Hon'ble Supreme Court of India, in the case of The Tamil Nadu Chief Controlling Revenue Authority cum Inspector General of Registration & others v. A.G.Syed Mohideen [Civil Appeal No.3373 of 2020], dated 06.10.2020, held that "the High Court was in error in observing that the fixation of value in the instant case was based on future development. The valuation was based on parameters laid down in Rule 5 and as such the conclusion drawn by the High Court in respect of the issue in question was erroneous".

8.Therefore, Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, enumerates the guiding factors and the authorities are bound to protect the revenue of the State. Once the guiding factors under Rule 5 stated above are followed, then there is no reason to interfere with the order passed by the authorities by the Courts. Certain discrepancies regarding the facts deserve no merit consideration in view of the fact that certain registrations, if any, not identified by the authorities cannot be cited for the purpose of comparison so as to undermine the value. In each case, the authorities are competent to make assessment by complying with the guiding factors as contemplated under Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. In some cases, the authorities could not have noticed certain discrepancies or factors suppressed by the parties, however, relying on those factors, the order passed otherwise in accordance with Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, cannot be interfered with. Thus, what is necessary for the authority is to follow the guidelines stipulated under Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, and once the factors stipulated are followed and assessment is made, the same becomes final and the Courts are expected to slow in interfering in such orders passed on merits.

9.In view of the facts and circumstances, the appellants have not made out any acceptable ground to interfere with the assessment made by the competent authority under Section 47-A(5) of the Indian Stamp Act, and thus, the impugned order dated 12.12.2014 stands confirmed and consequently, the Civil

Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

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To

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and Inspector General of Registration,
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Coimbatore - 18.

3.The Joint Sub Registrar-I,
Gobichettypalayam,
Erode District.

+1cc to Mr.A.Palaniappan, Advocate SR.No.16229

+1cc to Government Pleader SR.No.16707

C.M.A.No.972 of 2015

CA(CO)
GMY(15/04/2021)