IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.NO.3357 OF 2013
M.P.NO.1 OF 2013

V.Surya Narayana Reddy .. Appellant

vs.

1. Tamil Nadu Chief Controlling Revenue Officer,
   cum-Inspector General of Registration,
   Chennai-600 028.

2. District Revenue Officer (Stamps),
   O/o.The Chennai Collectorate,
   Singaravelar Maligai, 5th Floor,
   Rajaji Salai, Chennai-600 001.

3. The Sub-Registrar,
   Ambattur, Chennai-600 053.

.. Respondents

PRAYER:

Civil Miscellaneous Appeal filed under Section 47 (A) (10) of Indian Stamp Act, 1899 to set aside the impugned order passed by the 1st Respondent in Pa.Mu(D.Dis)No.25517/NI/2012 dated 20.05.2013 in confirming the order of the 2nd Respondent Na.Ka.Si.Pa.No.64/11/A4 dated 06.03.2012 and direct the respondents to redetermine the market value without charging and rule of interest in accordance with law.

For Appellants : Mr.R.Balakrishnan

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

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J U D G M E N T

The order dated 20.05.2013 issued under Section 47-A (5) of the Indian Stamps Act is under challenge in the present Civil Miscellaneous Appeal.

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2. The appellant registered a sale deed in Document No.8350 of 2011 on 02.09.2011. The valuation made by the appellant was disputed by the competent authorities and an action was initiated under Section 47(A) of the Indian Stamps Act. During the adjudication, the Authorities found that the document was undervalued and accordingly, fixed the value of the land as Rs.610/- per square feet. The District Revenue Officer (Stamps) conducted an enquiry and the said valuation was recommended by the District Registrar/Enquiry Officer. The appellant preferred an appeal under Section 47-A(5) of the Act and the Inspector General of Registration also confirmed the said market value of Rs.610/- per square feet. Thus, the appellant is constrained to file the present appeal.

3. The learned counsel appearing for the appellant mainly contended that no notice contemplated under the Rules was issued before conducting an inspection. Rules 3, 4 & 5 of the Undervaluation rules which are all mandatory were not followed. The guideline value cannot be treated equivalent to that of the market value and therefore, the assessment made by the Authorities is improper. It is contended that the land registered under the document is for common usage, more specifically, a passage. Thus, the guideline value cannot be treated as market value and therefore, the entire exercise made by the Authorities are in violation of the Undervaluation rules. The learned counsel referred the judgment in the case of S.Kandasamy Pillai vs. Revenue Divisional Officer reported in 1999 (1) CTC 344 wherein this Court held as follows:

> 7.A harmonious construction of the above Section and Rule, makes it clear that in view of the word may used in Rule 4(3)(c), no doubt the Collector is given an option to inspect the property; but once the Collector decides to inspect the property to hold an enquiry on the representation of the petitioner, it is mandatory for the Collector to give due notice to the petitioner before inspecting the property; otherwise, the very enquiry contemplated under Section 47-A of the Act read with Rule 4(3)(c) would become an empty formality.

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4. Relying on the above grounds, the learned counsel for the appellant is of the opinion that the Authorities have not followed the principles of natural justice by issuing notice and the fixation of value is also not in consonance with the Undervaluation rules.

5. The learned Special Government Pleader disputed the grounds raised by stating that it is not for the Authorities to decide regarding the usage of the land. What is required as the

land is registered or not? In the present case, the sale deed was executed. However, regarding the usage of the land as common passage or exclusive passage is an immaterial factor, as far as the fixation of market value is concerned.

7. In this regard, Section 47(AA) of the Indian Stamps Act provides constitution of Valuation Committee. Accordingly, 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. Sub-clause (2) the Valuation Committee is the final authority for the formulation of policy, methodology and administration of the market value guidelines in the State and may for the said purpose constitute valuation sub-committee in each district comprising of such members as may be prescribed, for estimation and revision of the market value guidelines. Thus, the Indian Stamps Act, 1899 itself contemplates a procedure for valuation. When the Statute provides methodology for valuation, then the same will prevail over the consequential rules. The Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules, 1968 was notified in exercise of the powers conferred by Section 47 (A) and 75 of the Indian Stamps Act. Section 47(AA) was inserted by the Tamil Nadu Act, 13 of 2008 with effect from 01.06.2010. Thus, the amended 47(AA) of the Indian Stamps Act will prevail over with reference to the Undervaluation rules which was issued under Section 47-A and 75 of the Indian Stamps Act.

8. After insertion of Section 47-AA (Constitution of Valuation Committee), the Valuation Committee is the final authority for the formulation of policy, methodology and administration of the market value guidelines in the state. Sub-clause 2 made it very clear that such a Valuation Committee may be constituted in each district for estimation and revision of market level of the land. When the Act contemplates the procedures for valuation, the said provision alone will prevail over and the other procedures enumerated under the Undervaluation rules are to be read along with the Statute and cannot be read in isolation. Undoubtedly, the Act will prevail over the Rules. Thus, the procedures contemplated must be in consonance with the provisions of the Act and further, certain time limits or methodologies prescribed in the Rules or guiding principles cannot be construed as mandatory, but directory. The guidelines issued under the Rules are to be followed scrupulously. When certain practical difficulty arises and the Act clarifies the same, then the provision of the Act alone should be considered for the purpose of determining the issues. Contrarily, such guidelines cannot be construed as mandatory so

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as to invalidate the entire process of valuation undertaken by the Statutory committee more specifically, with reference to the provision of the Indian Stamps Act.

9. The Hon'ble Supreme Court of India in the case of THE INSPECTOR GENERAL OF REGISTRATION, TAMIL NADU AND OTHERS VS. K. BASKARAN in C.A.No.2586 of 2020 dated 15.06.2020 clarified that "we, therefore, hold the fixation of timeline of three months in Rule 7 to be purely directory. In the premises, the conclusion by the High Court holding the said provision to be mandatory is set aside, and no benefit on that ground can accrue to the Respondents".

10. With these principles, let us now consider the appeal on hand. As far as the appeal on hand is concerned, the sale deed admittedly was executed on 02.09.2011. The learned counsel appearing for the appellant made a submission that the land is for the common usage more specifically, a passage and therefore, the guideline value cannot be fixed as market value for the purpose of levying the stamp duty. In this regard, he made an attempt to clarify the usage of the land through the registered sale deed. However, this Court is of the opinion that the usage of the land by owner or by co-owner is prerogative of the persons, who are registering the document as far as the market level is concerned, the same would not have any implication at all. The market value is decided based on the guideline value and if any discrepancy, the authorities have to conduct an inspection and determine the value and accordingly, the stamp duty is to be levied. Therefore, it is not as if the separate value is to be adopted in respect of the registration done for passage, which is to be used commonly by co-owners. As far as the registration of document is concerned, the guideline value fixed by the competent committee would be followed and accordingly, the stamp duty is to be paid.

11. In the present case, the District Revenue Officer (Stamps) fixed the value as Rs.610/- per square feet stating that the lands conveyed constitute a pathway. The District Registrar (Inquiry Officer) has also recommended the same value. The point raised by the appellant was also considered. The finding was given that "whatever may be the reasons for execution of the document charged for Stamp Duty and Registration Fees on the prevailing Market value of the property involved in the instrument. The definition of the Market value is the value of the property will fetch if sold in open auction. Hence, market value does not change just because the lands are going to be used as path way or that they were already conveyed to the party. The current document has to be valued based upon its recitals.

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12. Thus, the ground raised by the appellant was considered by the first respondent/Inspector General of Registration. The appellant was provided with an opportunity. An advocate appeared on behalf of the appellant and the said counsel put forth his arguments and those arguments were also considered by the Inspector General of Registration in the appeal under Section 47-A(5) of the Act. This being the facum, this Court do not find any perversity or infirmity and accordingly, the order impugned dated 20.05.2013 passed by the first respondent stands confirmed and consequently, civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

ssb

To

1. Tamil Nadu Chief Controlling Revenue Officer,
   cum-Inspector General of Registration,
   Chennai-600 028.

2. District Revenue Officer (Stamps),
   O/o.The Chennai Collectorate,
   Singaravelar Maligai, 5th Floor,
   Rajaji Salai, Chennai-600 001.

3. The Sub-Registrar,
   Ambattur, Chennai-600 053.

+1cc to Mr.R.Balakrishnan, Advocate, S.R.No.17867
+1cc to the Government Pleader, S.R.No.18464

C.M.A.No.3357 of 2013

KV(CO)
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