IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30-03-2021
CORAM
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1908 of 2018
And
C.M.P.No.14680 of 2018

R.Ramasamy .. Appellant

Vs.

1. The Chief Controlling Revenue Authority and Inspector General of Registration, Santhome High Road, Madras-600 028.

2. The Special Deputy Collector (Stamps), Salem-Namakkal-Dharmapuri and Krishnagiri Districts, Salem.

3. The Joint Sub-Registrar-II, Namakkal. .. Respondents

Civil Miscellaneous Appeal is filed under Section 47-A (10) of the Indian Stamp Act, 1899 read with Section 104 of the Code of Civil Procedure against the order of the learned Chief Controlling Revenue Authority and Inspector General of Registration dated 03.07.2018, which was received by the appellant on 10.07.2018 made in Na.Ka.No. 22244/N2/2014, confirming the order of the learned Special Deputy Collector (Stamps), Salem dated 28.02.2007 passed in SR No.706/2001/NKL.

For Appellant : Mr.C.Jagadish

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

JUDGMENT

The order impugned passed by the first respondent in proceedings dated 03.07.2018 under Section 47-A(5) of the Indian Stamp Act, is under challenge in the present Civil Miscellaneous Appeal.

2. The learned counsel for the appellant contended that the Sale Agreement was entered into between the vendor and the vendee and thereafter, a suit for specific performance was filed.

3. It was an unfortunate situation where the civil litigation emerged for which the appellant cannot be penalised by the authorities.

4. It is contended that once it is established that the delay in presentation of an instrument before the Competent Authority of the Registration arose on account of some unforeseen circumstances, more specifically, litigations, then the stamp duty is to be assessed based on the market value prevailing at the time of agreement for sale and not on the date of presentation of the document.

5. Further, it is contended that the authorities have not followed the guideline value and they have committed an error in following same value as recommended by the Special Deputy Collector (Stamps). Thus, the entire assessment of market value is not determined by the first respondent-Inspector General of Registration and hence the order impugned is liable to be set aside.

6. The learned Special Government Pleader objected to the said contention of the learned counsel for the appellant by stating that it is not the date of sale agreement is to be taken into consideration for the purpose of determining the market value for levy of stamp duty. The date on which the instrument is presented before the Competent Authority is the date to be taken into consideration for assessing the market value of the property, which would be the spirit of the Act and therefore, the very contention raised in this regard, is in violation of the provisions of the Act.

7. This apart, when the Appellate Authority-first respondent arrived a conclusion that the market value determined by the Special Deputy Collector (Stamps) is appropriate and in consonance with the provisions of the Act and the Rules, there is no error in adopting the same market value and thus, the appellant cannot made a point that independent assessment is made.

8. Even after independent consideration, the first respondent-Appellate Authority may agree the market value as determined by the Sub Registrar or by the Deputy Collector (Stamps).

9. This Court is of the considered opinion that

understanding of the Scheme of the Indian Stamp Act along with the Rules, namely Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, there cannot be any doubt that the question of assessment of market value would arise only if an instrument/document is filed before the Competent Authorities under the provisions of the Statute.

10. An agreement for sale, which was not presented before the Competent Authority, cannot be a document to be considered for the purpose of assessment of market value in the Sale Deed, even if such agreement for sale is registered.

11. The agreement for sale is registered as an independent instrument and the value of the document was assessed and the stamp duty was paid in respect of such registered agreement for sale. Thus, the said agreement for sale cannot have any nexus or implication with reference to the Sale Deed, which is presented in any subsequent date.

12. Every instrument presented is to be assessed independently and therefore, the agreement for sale, which was entered into between the parties long back, cannot be taken into consideration for the purpose of determining the market value for levying stamp duty.

13. If such an analogy as raised by the appellant is accepted, then the same would result in disastrous consequences and the very spirit of the provisions under the Indian Stamp Act is diluted.

14. For example, if any person claims that the agreement for sale was entered into between the seller and the purchaser during the year 1990 and thereafter, a suit for specific performance is filed and the suit was disposed by the Trial Court after five years i.e., in the year 1995 and the First Appeal before the Appellate Court was pending for about 10 years and the Second Appeal was also pending before the High Court for another ten years and thereafter before the Supreme Court for another five years and after 35 years, the appellant will pay the stamp duty based on the market value, which was prevailing at the time of agreement for sale i.e., during 1990, then the very purpose of Indian Stamp Act is defeated and such an impracticable approach can never be adopted nor be contemplated by interpreting the provisions of the Indian Stamp Act.

15. Thus, for all purposes, the date of presentation of document before the Competent Authority under the Statute must be the date for determination of market value for the purpose of levying the stamp duty and any earlier agreement, memorandum of

understanding etc., whether registered or unregistered, may not have implications with reference to the presentation of the document, which is in question.

16. Section 47-A of the Indian Stamp Act, unambiguously, enumerates that "If the registering Officer appointed under the Indian Registration Act, 1908 (Central Act XVI of 1908) while registering any instrument of conveyance, (exchange, gift, release of benami right or settlement) has reason to believe that the market value of the property which is the subject matter of conveyance, (exchange, gift, release of benami right or settlement) has not been truly set forth in the instrument he may, after registering such instrument, refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon".

17. Thus, the above provision is crystal clear that all the documents presented before the Competent Authority under the Registration Act, are to be assessed for the purpose of determination of market value for payment of stamp duty and there is no whisper about any document, otherwise registered or unregistered before the presentation of documents, which is in question.

18. This being the constructive interpretation of the provisions of the Indian Stamp Act and even the Undervaluation Rules 3 and 4 also clarifies that date of presentation of document is to be considered for the purpose of determination of market value and therefore, the very concept of determining the market value based on the agreement for sale is unknown to the Statute as well as the Rules and thus, this Court has no hesitation in arriving a conclusion that the manner in which the subject property was assessed for the determination of market value is in consonance with the provisions of the Statute and the Rules.

19. In respect of the case on hand, on appeal, the first respondent-Inspector General of Registration adjudicated the issues and admittedly, the document was presented on 27.09.2001 in document No.2328/2001. The Sub Registrar fixed the market value of Rs.72.30 per sq.ft. The said value is confirmed by the Special Deputy Collector (Stamps) under Section 47-A(2) of the Indian Stamp Act. Thereafter, the appellant preferred an appeal before the first respondent-Inspector General of Registration.

20. The first respondent-Inspector General of Registration considered the objections raised by the appellant and formed an opinion that as per the Enquiry Report of the District Registrar, Namakkal, the said property situate at

Namakkal, Mohanoor Road and nearby Kondichettipatti Bus Stand, one kilometer from Kondichettipatti Bus Stand.

21. Considering the vicinity and the other factors, including the development prevailing during the relevant point of time, the first respondent-Inspector General of Registration also formed an opinion that the market value fixed by the Sub Registrar as well as the Special Deputy Collector (Stamps), are in accordance with law and no further reduction is required.

22. When the Authority Competent formed such an opinion, there is no reason to interfere with the findings by the Courts unless such findings are established as perverse and not in accordance with law.

23. Courts are not expected to determine the market value of the property. Courts are not Expert Body to form an opinion regarding the market value of an immovable property. However, Courts are bound to scrutinise the manner through which such assessment is made by the Competent Authority and such assessment is determined by following the procedures contemplated under the Statute and the Rules.

24. This being the limited role of an Appellate Court under the Statute, this Court is of the considered opinion that the determination made deserves no interference as the Courts cannot form an independent opinion regarding the market value of the property.

25. In the present case, all the procedures are followed with reference to Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules and this Court could not find any perversity or infirmity.

26. In view of the facts and circumstances, the order impugned is not perverse and the order passed by the the first respondent-Inspector General of Registration dated 03.07.2018 stands confirmed and consequently, CMA No.1908 of 2018 is dismissed. However, there shall be no order as to costs and the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Controlling Revenue Authority and
   Inspector General of Registration,
   Santhome High Road,
   Madras-600 028.

2. The Special Deputy Collector (Stamps),
   Salem-Namakkal-Dharmapuri and
   Krishnagiri Districts,
   Salem.

3. The Joint Sub-Registrar-II,
   Namakkal.

+1cc to Mr.S.Senthil, Advocate, S.R.No.211871.

CMA No.1908 of 2018

CP(CO)
CSR 29.04.2021