IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1883 of 2017

G.Devendran ..Appellant

Vs.

1.The Inspector General of Registration,
Santhome High Road,
Chennai – 28.

2.The District Registrar (Stamps)
Kancheepuram.

3.The District Revenue Officer (Stamps)
Chennai – 1.

4.The Sub-Registrar,
Sub-Registrar Office,
Thiruvallur. ..Respondents

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Prayer : Civil Miscellaneous Appeal filed under Section 47A(10) of the Indian Stamp Act, against the order passed by the 1st respondent herein in his proceedings dated 20.04.2017 in Na.Ka.No.2810/N1/2016.

For Appellant	:	Mr.R.Nalliyappan
For Respondents	:	Mr.T.M.Pappiah Special Government Pleader

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JUDGMENT

The order passed by the first respondent under Section 47(5) of the Indian Stamp Act in proceedings dated 20.04.2017 is under challenge in the present Civil Miscellaneous Appeal.

2. The learned counsel appearing on behalf of the appellant mainly contended that no notice or opportunity was provided to the appellant to submit his defense at the time of conducting of enquiry by the District Registrar. Thus, the order is liable to be set aside. This apart, the Guideline value was fixed at the rate of Rs.100/- per sq.ft and accordingly, the appellant has paid the Stamp duty at the rate of Rs.200/- per sq.ft and presented the said document for registration. The said stamp duty was registered in the year 2011 and it was released now after a lapse of five years. The second respondent fixed the market value at Rs.1,000/- per sq.ft, which is not maintainable and in violation of Section 47-A of the Indian Stamp Act.

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3. The learned Special Government Pleader objected the said contention by stating that the under valuation of the document presented by the appellant was identified by the competent authorities and consequently, the proceedings under Section 47-A of the Indian Stamp Act was initiated. Thus, there is no infirmity as such and the authorities by virtue of power conferred under Section 47-A of the Act, initiated proceedings for the determination of market value and the said exercise was done by following the procedures as contemplated. Accordingly, the inspection was conducted and the Inspection Report was submitted. The facts, circumstances and the prevailing market value during the relevant point of time and the value of the adjacent lands were considered.

4. The learned Special Government Pleader relied on the fact that in the very same layout, the developer registered a document and as per the document, the market value is fixed as Rs.1,000/-. In view of the fact that the developer paid the Stamp duty based on the market value of Rs.1,000/- per sq.ft, there is no reason to fix a different market value in respect of the property in the same layout. Thus, the inspecting authorities also formed an opinion that Rs.1,000/- per sq.ft would be

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appropriate and accordingly, directed the appellant to pay the differential stamp duty. The appellant preferred an appeal under Section 47A(5) of the Stamp Act and the 1st respondent adjudicated the facts, circumstances as well as the documents. Admittedly, the Document was presented on 09.02.2011 in Document No.1144 of 2011.

5. With reference to the property in the same layout in the Document No.7795 of 2010, the market value was fixed as Rs.1,000/-. However, the learned counsel for the appellant replied by stating that the Developer intentionally enhanced the market value for the reasons not known to the appellant. Thus, the said market value cannot be taken into consideration. However, the fact remains that the document was registered by the developer himself and therefore, there is no reason to reduce the market value by the Department authorities in this regard. Thus, there is no infirmity as such in respect of following the document registered with reference to the adjacent lands in the same locality. The first respondent also considered those factors and assessed the value as Rs.1,000/- per sq.ft. The procedures as contemplated under Rule 5 of the Prevention of Undervaluation Rules were adopted and inspection was

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conducted and thereafter, the decision was taken.

6. However, there was subsequent inspections conducted by the authorities reveals that, the market value was reduced from Rs.1,000/- to Rs.800/- per sq.ft. Two orders were produced before this Court. One by the appellant and the another by the learned Special Government Pleader dated 04.01.2021 and December 2020 respectively.

7. Both the orders were passed under Section 47-A(5) of the Indian Stamp Act. The orders are relating to the same layout and both the appeals filed by other persons under Section 47-A(5) of the Act, the first respondent determined the market value as Rs.800/- per sq.ft. Thus, a concession was given to the beneficiaries, who all are presenting the document in respect of the same layout. Accordingly, Rs.800/- could be the market value to be fixed for the appellant also, in order to maintain consistency in the matter of determination of market value.

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8. In view of the fact that during the pendency of the appeal, the first respondent considered the other appeals filed by other persons, who

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presented documents and in those appeals, an order was passed, fixing the market value as Rs.800/-, this Court is an opinion that the market value fixed in the impugned order is also to be reduced from Rs.1,000/- to Rs.800/- as far as the appellant is concerned.

9. Accordingly, the appellant is directed to value the subject property for Rs.800/- per sq.ft and calculate the deficit stamp duty and pay the same within the period of eight weeks from the date of receipt of a copy of this judgment. In view of the facts and circumstances, the order impugned dated 20.04.2017 passed by the 1st respondent stands modified and the market value of Rs.1,000/- is reduced to Rs.8,00/- per sq.ft and therefore, the Civil Miscellaneous Appeal in C.M.A.No.1883 of 2017 stands allowed in part. No costs.

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25.03.2021

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Index: Yes/No
Internet:Yes/No
Speaking order/Non-Speaking Order

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To

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Santhome High Road,
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S.M.SUBRAMANIAM, J.

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