IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.NOS.57 AND 99 OF 2017
AND
C.M.P.NOS.539 AND 769 OF 2017

Karan Y.Thakkar .. Appellant in CMA.NO.57 of 2017

Ashok Thakkar .. Appellant in CMA.No.99 of 2017

Vs.

1. The Inspector General of Registration and Chief Controlling Revenue Authority,
No.120, Santhome High Road,
Chennai - 600 028.

2. The District Revenue Officer (Stamps),
Collectorate Building,
Coimbatore, Tamil Nadu.

3. The Joint-I Sub Registrar,
Ootacamund. .. Respondents in both CMAs

PRAYER in CMA.No.57 of 2017:

Civil Miscellaneous Appeal is filed under Section 47 A (10) of Indian Stamp Act, 1988, praying to set aside the order dated 08.11.2016, bearing Nos.Na.Ka.No.10705/N2/2016, passed by the 1st respondent herein, relating to the sale deed dated 14.05.2014, registered as Doc.No.600 of 2014, on the file of the 3rd respondent herein.

PRAYER in CMA.No.99 of 2017:

Civil Miscellaneous Appeal is filed under Section 47 A (10) of Indian Stamp Act, 1988, praying to set aside the order dated 19.08.2016, bearing Nos.Pa.Mu.No.10638/N2/2016, passed by the 1st respondent herein, relating to the sale deed dated 14.05.2014, registered as Doc.No.601 of 2014, on the file of the 3rd respondent herein.

For Appellant in both CMAs	:	Mr.R.Venkatraman
For Respondents in both CMAs	:	Mr.T.M.Pappiah, Special Government Pleader (for Registration)

C O M M O N J U D G M E N T

The appellant preferred these appeals challenging the order dated 08.11.2016 and 19.08.2016 respectively, bearing Mu.Pa.Nos.10705/N2/2015 and 10638/N2/2015 passed by the Inspector General of Registration and Chief Controlling Revenue Authority, Chennai, Tamil Nadu, relating to sale deed dated 14.05.2014, registered as Doc.Nos.600 and 601 of 2014 respectively, on the file of the Joint I Sub Registrar, Ootacamund.

2. Civil Miscellaneous Appeals are admitted on the following questions of law:

> Whether the order of the market value of land estimated is Rs.4,000/- per sq.ft., by the respondent as against the actual market value of Rs.1,000/- per sq.ft, prevailing the date of presentation of the sale deed is sustainable in law?

3. The facts reveal that the appellant herein purchased a total extent of 09.25 cents through two sale deeds on 14.05.2014 for the lands comprised in New R.S.No.(T.S.No.C/1/12 and old R.S.No.4395 situated at Havelock Road, Udhagamandalam Town, Nilgiris District and the same was presented for registration to the second respondent on 17.07.2014, under Section 47(1) of the Indian Stamp Act. Notice was issued by the first respondent in which they claimed loss of Revenue to the Government has been estimated as Rs.4,57,800/- on account of the alleged undervaluation. In response to the said notice, the appellant had sent a reply dated 08.08.2014. The first respondent stated that the market value of the land has been estimated at Rs.4,000/- per sq.ft as against the market value of Rs.1,000/- per sq.ft without giving prior notice on 16.08.2014. The first respondent inspected the subject land and fixed a sum of Rs.3,500/- per sq.ft as the temporary market value for the subject land and further called upon him to pay the deficit stamp duty. Again, he sent a reply, but it was not considered by the first respondent and the impugned order was passed by fixing Rs.3,500/- per sq.ft. Aggrieved by that, he preferred this appeal.

4. At the time of the argument, the learned counsel for the appellant submits that the first respondent erroneously considered that the land in dispute is situated in a Havelock road, which has been classified as commercial class - 1 type - III, is Rs.4,000/- per sq.ft. The said valuation may be applicable for the lands situated within the heart/central business district/market area of Ootacamund town and cannot be made applicable to the subject land, which is about 8 kms from the prime market place of Ooracamund town. Further, he also contended that the said land is surrounded only by the residential building and to prove the topography of the land, he produced the enlarged sketch in the typed set of papers in page Nos.82 and 83.

5. On seeing the topography of the said land it has been notified in dark sketch. The same reveals that the said land was not in Havelock road and it is far away from the said road and the subject land is in the residential area.

6. Another contention raised by the appellant is that the first respondent is used the guideline value of the Havelock road and it has been categorized as commercial parameter but, the subject land is purely residential, for which the said guideline value is not applicable. At this juncture, the learned counsel for the respondent submits that when the document was submitted for registration, the appellant himself mentioned that the subject land situated in Havelock road, accordingly, it was taken into consideration by the respondent authority to fix the market value of the property, but this fact is literally correct on seeing the particulars given by the appellant to register the sale deed in typed set of papers in page No.25 in the description of the property it is stated as Havelock road, old R.S.No.4395, Havelock Road, Ootacamund Town, in New R.S.No. (T.S.No) C/1/12 with extent. However, fixing the market value, not only the mentioning of the road as Havelock road could be considered by the registering authorities, but the other facts and circumstances also to be taken into consideration

7. According to the appellant counsel, the subject land situated in residential area and even assuming that it is in the commercial area, at the time of registration of the said land in the year 2014, the market value prevailed at that time with regard to the Havelock road is Rs.2,000/- per sq.ft and for that he relied guidelines value extracted from the registration department. Page No.17 of the typed set of papers in New R.S.No. (T.S.No) C/1/12 relates to the land in dispute. The guideline value is mentioned as Rs.2,000/- per sq.ft and classified as Commercial class-1 type - III. The learned Government Pleader raised objection stating that the said guideline value is relating to the year 2012, but the properties are purchased by

the appellant in the year 2014. So these documents not supporting their contention.

8. Even assuming that it is true, the said guidelines value relating to the commercial area in T.S.No.C/1/12, on seeing the guidelines value of the web extract from the registration department relating to the year 01.04.2012, in which the rose mount road mentioned as clause -I type-III and the guideline value is fixed as Rs.1,000/- per sq.ft and the said document is annexed in Page No.69 of the typed set of papers, which proves that in the Rose mount road, the properties are classified as a residential clause.

9. Admittedly, the land in dispute also annexed to the Rose mount road, so the appellant established that the land is not situated in a commercial area. Furthermore, even for the commercial area of the lands in Havelock road the market value is fixed at Rs.2,000/- per sq.ft. Taking into consideration the properties purchased by the appellant in the year 2014, the said land is situated in residential area and not in Havelock road. But considering other potentialities subject to raising the value of the property, Rs.2,000/- per sq.ft is fixed and the appellant is directed to pay the deficit stamp duty. To that effect and the interest of the litigation period is ordered to be excluded. Therefore, for the above reason, the impugned order passed by the first respondent is set aside.

10. The Civil Miscellaneous Appeals are allowed. The appellant is directed to pay Rs.2,000/- per sq.ft to the property concerned in two sale deeds with registration Nos.Na.Ka.No.10705/N2/2016 and Pa.Mu.No.10638/N2/2016 and the interest with regard to the pending litigation period is ordered to be exempted. The appellant is directed to pay the amount within a period of six months. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration and Chief Controlling Revenue Authority,
No.120, Santhome High Road,
Chennai - 600 028.

2. The District Revenue Officer (Stamps),
Collectorate Building,
Coimbatore, Tamil Nadu.

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Ootacamund.

Copy To
The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.Santhosh Ukkur, Advocate, S.R.No.20481
+1cc to the Government Pleader, S.R.No.21272

LN(CO)
CS/23/06/2021