IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

C.M.A.No.2683 of 2018
and
C.M.P.No.20220 of 2018

Adhimoolam ... Appellant

Vs.

1.The Chief Controlling Revenue Authority/
Inspector General of Registration,
Santhome,
Chennai.

2.The Deputy Collector,
(Special) Stamps,
Cuddalore.

3.The Sub-Registrar,
Joint Sub-Registrar-I,
Villupuram. ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 47-A(10) of the Indian Stamp Act, 1899, to set aside the order dated 10.09.2018 in Na.Ka.No.30701/N3/2015 on the file of the 1st respondent.

For Appellant : Mr.Prabhakaran
for Mr.G.Rajan

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

J U D G M E N T

The order impugned dated 10.09.2018 is passed under Section 49-A(5) of the Indian Stamp Act, 1899. The sale deed was registered on 16.04.2012.

2.The learned counsel appearing for the appellant paid a sum of Rs.650/- per sq.ft. and the said market value was disputed by the authorities, and accordingly, the 2nd respondent instituted action for determining the market value of the subject property. The Special Deputy Collector (Stamps), under Section 47(A2) of the Indian Stamp Act, determined the market value as Rs.1,650/- per sq.ft. However, the Deputy Registrar (Administration), Villupuram, recommended for a sum of Rs.1,400/- per sq.ft. With this background, the appeal filed by the appellant under Section 47-A(5) of the Indian Stamp Act was adjudicated by the 1st respondent. The 1st respondent elaborately considered the materials available on record and formed an opinion that the appropriate market value would be Rs.1,200/- per sq.ft. and directed the appellant to pay the deficit stamp duty for the purpose of releasing the sale deed.

3.The learned counsel appearing for the appellant reiterated that the 1st respondent has not considered the prevailing market value in respect of the adjacent lands. The value of the property was likely determined by the appellant and a sum of Rs.650/- per sq.ft. was paid. Thus, there is no reason to revise the market value, and therefore, the impugned order is liable to be scrapped.

4.The learned Special Government Pleader objected the said contention by stating that once the under valuation is identified, the authorities competent are bound to reassess the market value with reference to the prevailing situation. In the present case, the Special Deputy Collector (Stamps) assessed the market value and arrived at a conclusion that Rs.1,650/- sq.ft. would be appropriate. The Deputy Registrar (Administration) recommended Rs.1,400/- per sq.ft. Under these circumstances, the 1st respondent/Inspector General of Registration, considered all the documents and by considering the objections raised by the appellant, determined the value as Rs.1,200/- per sq.ft., and therefore, the 1st respondent extended some concession and the appellant cannot seek any further concession, and thus, the appeal is to be dismissed.

5.This Court is of the considered opinion that the process through which the market value is determined is to be considered by the Court. The Court cannot determine the market value. However, the Court is expected to scrutinize the process through which such determination is made by the competent authorities. In the present case, it would be relevant to consider 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.]"

Accordingly, the classification of the land is to be taken into consideration. The other factors which influence the valuation of the land in question and the value of adjacent lands or the lands in the vicinity are to be considered for the purpose of determination of market value.

6.In the present case, the 1st respondent has considered the market value fixed by the Special Deputy Collector (Stamps) as well as the recommendation made by the Deputy Registrar (Administration), Villupuram. Taking note of the objections filed by the appellant in the appeal, the 1st respondent arrived at a conclusion that Rs.1,200/- per sq.ft. would be appropriate, and accordingly, fixed the said amount as market value. This Court do not find any perversity or infirmity as such.

7.This being the factum, the appellant could not establish any acceptable ground for the purpose of interfering with the order and accordingly, the impugned order, dated 10.09.2018, passed by the 1st respondent, stands confirmed. Consequently, the Civil Miscellaneous Appeal is dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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To

1.The Chief Controlling Revenue Authority/
Inspector General of Registration,
Santhome,
Chennai.

2.The Deputy Collector,
(Special) Stamps,
Cuddalore.

3.The Sub-Registrar,
Joint Sub-Registrar-I,
Villupuram.

+1cc to Mr.R.RajaRajan, Advocate SR.No.17044

+1cc to Government Pleader SR.No.17583

C.M.A.No.2683 of 2018

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