BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED**: 06.09.2022**

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.M.A(MD)No.465 of 2009
and
M.P(MD)No.2 of 2009

T.Kamaraj ... Appellant

vs.

1.The Inspector General of Registration cum
Chief Revenue Controlling Authority,
Chennai-28.

2.The Special Deputy Collector (Stamps)
Collectorate Complex,
Virudhunagar.

3.The Sub Registrar,
Seithur, Rajapalayam T.K
Virudhunagar District. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47(A) 10 of Indian Stamp Act r/w Rule 9(5) (a) of Tamil Nadu Prevention of Under Valuation of Instruments Rules, praying this Court to allow this Civil Miscellaneous Appeal by setting aside the order made in Pa.Mu.No. 58960/N4/2005 dated 04.12.2008 on the file of the first respondent confirming the order made in Na.Ka.Tha.Pa.No.35/04 dated 28.07.2005, Na.KaTha.Pa.No.409/04 dated 28.09.05 and Na.Ka.Tha.Pa.No.161/05 dated 25.08.08 on the file of the second respondent.

For Appellant : Mr.M.Thirunavukkarasu
For Respondents : Mr.SR.A.Ramachandhran
Additional Government Pleader

JUDGMENT

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This Civil Miscellaneous Petition is filed to set aside the order made in Pa.Mu.No.58960/N4/2005 dated 04.12.2008 on the file of the first respondent confirming the order made in Na.Ka.Tha.Pa.No.35/04 dated 28.07.2005, Na.KaTha.Pa.No.409/04 dated 28.09.05 and Na.Ka.Tha.Pa.No.161/05 dated 25.08.08 on the file of the second respondent.

2. Brief facts of the case is as follows:-

The appellant purchased the properties in Survey Nos.289/5G, 289/6C, 289/6A, 289/6C, 290/2B1, 290/1B3, 289/5E and 289/5D situated at Chettiyarpatti village, Rajapalayam Taluk, Virudhunagar District from one Seeniyappa Nadar under a registered sale deeds dated 18.12.2003, 05.07.2004 and 19.05.2005 respectively vide document Nos. 2499/2003, 1276/2004 and 845/2005 respectively on the file of the Sub Registrar, Seithur and also paid stamp duty. The said lands are punja lands and coconut trees are standing in the said lands. The respondent herein has not accepted the stamp duty paid by the appellant and referred the matter to the second respondent under Section 47-A(1) of the Indian Stamp Act as the appellant under valued the properties and paid lesser stamp duty. The second respondent herein has sent a letter to the appellant to pay a sum of Rs.20,423/- for document No.2499/03 and Rs. 11404/- for document No.1276/2004 and Rs.21,600/- for document No. 845/2005 or send his objection immediately from the date of receipt of the said letter. On receipt of the said letter, the appellant sent his objections to the second respondent on 18.07.2005 and 27.08.2005. But the second respondent, without properly considering the objection, has passed the final order on 28.09.2005 and thereby, directed the appellant to pay a sum of Rs.24/- per sq.feet Against the said order, the appellant filed an appeal before the first respondent, who in turn, appointed the District Registrar, Virudhunagar, to inspect the property and give a report. Thereafter, the first respondent passed the final order not only confirmed the order of the second respondent but also enhanced the deficit stamp duty from Rs.24 to Rs.25/- per sq.feet. Challenging the order of the first respondent, the appellant is before this Court, by way of the present Civil Miscellaneous Appeal.

3. The learned counsel for the appellant submitted that the lands purchased by the appellant are punja lands and coconut trees are standing in the said lands. The lands in question are situated away from Chettiyarpatti Village and the said lands are surrounded by punja and nanja lands only. The guideline value fixed by the respondents 1 and 2 would apply to the vacant house site lands, not for the punja lands. The first respondent failed to consider the report sent by the District Registrar, wherein, he has stated that there is no possibility for the lands purchased by the appellant to convert as house sites in future. The first respondent has simply confirmed the order of the second respondent without considering the material evidence. The learned counsel for the appellant produced the adangal extract to show that the said lands are punja lands. Hence, he prays for setting aside the impugned order.

4.Per contra, the learned Additional Government Pleader appearing for the respondents submitted that since the properties in question are undervalued, a proper enquiry was conducted and accordingly, the stamp duty was demanded by the respondents. Hence, the impugned order holds good in all respects and prayed for dismissal of this civil miscellaneous appeal.

5.Heard the learned counsel appearing for the respective parties and perused the records.

6. On perusal of the report of the District Registrar, Virudhunagar shows that the lands purchased by the appellant are situated at the end of Chettiyarpatti Village. He has also stated in his report that in document No.2499/03, there are 15 coconut trees and in document No.845/05, there are 4 coconut trees and the trees in document No.1276 of 2004 were removed and the lands purchased by the appellant are surrounded by agricultural lands and there is a Thondaimangulam Kanmai and also stated that there is no possibility of converting the land purchased by the appellant into house in future and it could be used as agriculture land only. The adangal extracts also shows that in Survey No.289/5G, there are some coconuts trees. Without considering the material evidence, the first respondent, on assumption and presumption, held that the lands purchased by the appellant is smaller extent and the same cannot be considered as agriculture lands and therefore, the same are considered as house sites. Hence, in the considered view of this Court, even a smaller extent of land cannot be *suo motu* changed/converted into a house site. Therefore, this Court is inclined to set aside the impugned order.

7. In the result, this Civil Miscellaneous Appeal is allowed and order passed by the first respondent in Pa.Mu.No.58960/N4/2005 dated 04.12.2008 confirming the order made in Na.Ka.Tha.Pa.No.35/04 dated 28.07.2005, Na.KaTha.Pa.No.409/04 dated 28.09.05 and Na.Ka.Tha.Pa.No.161/05 dated 25.08.08 on the file of the second respondent is set aside. No costs. Consequently, connected miscellaneous petition is closed.

06.09.2022

Index :Yes/No
Internet :Yes/No

To

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2.The Special Deputy Collector (Stamps)
Collectorate Complex,
Virudhunagar.

3.The Sub Registrar,
Seithur, Rajapalayam T.K
Virudhunagar District.

4.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

A.A.NAKKIRAN .,J.

cp

JUDGMENT MADE IN

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and
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