



C.M.A(MD)No.359 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 13.10.2022

PRONOUNCED ON:02.12.2022

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.359 of 2022

and

C.M.P.(MD)No.3237 of 2022

M/s.Harihar Alloys (P) Ltd.,
represented by its Managing Director,
Mr.C.Baskaran. : Appellant / Appellant

Vs.

1.Tamil Nadu Chief Revenue Controlling Officer,
cum Head of Registration Department,
Inspector General of Registration,
No.120, Shanthom High Road,
Chennai-620 028.

2.The Special Deputy Collector (Stamps),
Collector Office Building,
Trichy District,
Trichirappalli-620 001.

3.The Sub Registrar,
Kulathur Sub Registrar Office,
Kulathur,
Pudukottai District.

: Respondents / Respondents



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PRAYER:- Civil Miscellaneous Appeal filed under Section 47-A(10) of Indian Stamp Act 1899 against the impugned proceedings of the first respondent in Na.Ka.No.37503/N3/2017, dated 06.01.2022 and quash the same.

For Appellant : Mr.V.Veerapandian
for M/s Vast Law Associates

For Respondents :Mr.P.T.Thiravium
Government Advocate

JUDGMENT

The Civil Miscellaneous Appeal is directed against the order passed in Na.Ka.No.37503/N3/2017, dated 06.01.2022 by the Tamil Nadu Chief Revenue Controlling Officer/Inspector General of Registration.

2. The factual aspects that are necessary for deciding the appeal in short are as follows:



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(a) The appellant is a Company incorporated under the Companies Act, manufacturing carbon steel, low alloy steel and stainless steel castings and forgings. The appellant Company purchased the property situated in Survey Nos.229/1D, 229/3D, 229/4A, 235/2B, 235/2G of Lakshmipatti Village, Kulathur Sub Registration District, Pudukottai District admeasuring 2.71 acres of land from one K.V.Abdul Mubarak Vagaiyara for Rs.3,30,000/- vide sale deed dated 15.02.2017. They have paid stamp duty of Rs.54,100/- on 15.02.2017 and the document was registered in Document No.388/2017. Subsequently, the third respondent referred the above said document to the second respondent for undervaluation as per Section 47A of the Indian Stamp Act. The appellant Company received Form-I notice under Rule 4 of the Tamil Nadu Stamp (Prevention of undervaluation of instruments) Rules 1968 directing them to pay an additional stamp duty of Rs.5,27,250/-.

(b) Aggrieved by the said Form-I notice, the appellant Company has preferred an appeal before the second respondent on 05.05.2017. The second respondent has passed an order in Tha.Pa.No.376/2017, dated 18.05.2017 directing the appellant to pay the deficit stamp duty of Rs.5,27,250/- by fixing the market value of the subject property at



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Rs.755/-per sq.metre. Aggrieved by the said order of the second respondent, the appellant Company has preferred an appeal under Section 47A(5) of the Indian Stamp Act before the first respondent.

(c) The first respondent has passed an order issuing his proceedings in Na.Ka.No.37503/N3/2017, dated 06.01.2022 fixing the value of the property at Rs.650/- per sq.metre and directed the appellant to pay the deficit stamp duty within two months. Challenging the above impugned order, the appellant Company has preferred the present Civil Miscellaneous Appeal.

3. The learned Counsel for the appellant would contend that the appellant Company to expand its business operations, purchased the property in question, that the appellant approached the third respondent and enquired about the stamp duty to be paid for the above said sale deed, that the third respondent has given the amount to be paid and asked the appellant to pay a sum of Rs.54,100/- on the estimated market value of Rs.7.70 Lakhs per hectare for an extent of 1.10.00 hectares, that when the appellant Company was expecting for the returning of the original sale deed, the third respondent refused to return the original sale deed



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and kept the document as pending and referred the said document to the second respondent for undervaluation as per Section 47A of the Indian Stamp Act, that the guideline value of the property in dispute is only Rs.5,93,500/- per hectare, that though the land in dispute is not used for agricultural purpose, the same cannot be categorized as commercial land, that though the impugned order has been passed on 06.01.2022, the same was received by the appellant on 04.02.2022, that nearly 5 years has been lapsed from the date of registration and that therefore, the impugned order of the first respondent is without jurisdiction.

4. The main contention of the appellant is that before registration of the sale deed, they have approached the third respondent and enquired about the stamp duty to be payable for the purchase of the property in question and that only on the basis of the valuation given by the third respondent, the property in question was valued at Rs.7.70Lakhs and stamp duty was paid at Rs.54,100/-. It is their further contention that though the guideline value for the property in question is only Rs.4,37,800/-, the appellant by valuing the property at Rs.7.70 Lakhs, has paid stamp duty at Rs.54,100/-



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5. It is pertinent to note that admittedly the property in question has been classified as “Dry-Manavari Lands-Type-I”. As rightly contended by the learned Counsel for the appellant, even according to the respondents, there was no agricultural work in the property in question and the same remained as vacant land at that time and that there were karuvelam trees in the said property. It is not in dispute that the appellant Company's manufacturing unit was situated nearby the property in dispute. The respondents have also referred another company by name Sabari Industrial Power Plant which was also situated in that area. It is evident from the records that the second respondent in his order as well as the District Registrar (Administration), Pudukottai in his report have specifically observed that the property in dispute was purchased for the expansion of the appellant Company. Accepting the decision of the second respondent with regard to the nature of the land, the first respondent has fixed the market value at Rs.650/- per sq.metre and thereby reduced the value fixed by the third respondent.

6. The learned Counsel for the appellant has relied on the judgment of the Hon'ble Supreme Court in ***State of Uttar Pradesh and Others Vs.***



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Ambrish Tandon and another reported in ***(2012)5 SCC 566***, wherein the

Hon'ble Apex Court held as follows:

“15. The impugned order of the High Court shows that it was not seriously disputed about the nature and user of the building, namely, residential purpose on the date of the purchase. Merely because the property is being used for commercial purpose at the later point of time may not be a relevant criterion for assessing the value for the purpose of stamp duty. The nature of user is relatable to the date of purchase and it is relevant for the purpose of calculation of stamp duty. Though the matter could have been considered by the Appellate Authority in view of our reasoning that there was no serious objection and in fact the said alternative remedy was not agitated seriously and in view of the factual details based on which the High Court has quashed the order dated 27.09.2004 passed by the Additional District Collector, we are not inclined to interfere at this juncture.”

7. The learned Counsel for the appellant has also relied on the decision of this Court in ***The Special Deputy Collector (Stamp), Cuddalore Vs. Chemicals and Plastics Ltd., represented by its Manager, Laksmi Ragavan***, reported in ***2004(1) CTC 187***, following the



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decision of the Hon'ble Supreme Court in ***State of Uttar Pradesh and Others Vs. Ambrish Tandon and another*** reported in ***(2012)5 SCC 566***

referred above, this Court has held as follows:

“20. In the light of the above consistent views, having found that stamp duty has been paid as per the market value payable on the instrument on the date of sale with reference to the existing ground conditions or for that purpose assuming that the guideline value reflects the market value for the purpose of arguments, there is no authority or jurisdiction on the part of the registering officer thereafter to refer the instrument. In the present case market value has been declared by the executant and stamp duty payable as per the prevailing market value has been paid on the instrument and there is no quarrel. What is the controversy is the proposed user of the land for industrial purpose, which cannot be taken as a governing factor to fix the market value or to assess the market value. It may be that the purchaser may use it on any future date for industrial purpose. The purchaser may be an industrial establishment, but on that score it cannot be said that the market value is something different from what is the prevailing market value of identical lands in the locality.

21. Even the purchaser may use it for an industrial purpose immediately or on any future date or it may even retain the same as such for number of years together. Therefore, merely



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because an industrial establishment or a company has purchased the land, the market value cannot be different from what is prevailing market value in the locality. The expression market value has not been defined under the [Stamp Act](#). Therefore the registering authority has no jurisdiction at all in this matter or he has exceeded his jurisdiction in referring the instrument to the Special Deputy Collector.”

8. In ***Ezhilarasi and another Vs. the Inspector General of Registration and others*** reported in **2009(1) CTC 698**, this Court has held as follows:

“Therefore, the impugned order of the first respondent confirming the order of the second respondent deserves to be set aside as they have taken into consideration the documents of the year 2000 and 2001 when the documents were tendered for registration in April, 1998 and February 1998 respectively. The market value of the property, if any, has to be determined based on the date when the documents were tendered for registration. Further, the determination of market value by the authorities is not in accordance with the provisions of [Section 47A](#) of the Act and the 1968 Rules as stated above. Since the impugned orders of the respondents



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are not in conformity with the above position of law they are liable to be set aside.”

9. In *M/s Karpagavinayaga Associates represented by its partners Vs. the Inspector General of Registration of Tamil Nadu and others* reported in **2014-5-L.W.280, this Court has held as follows:**

“A reading of the above judgment would go to show that merely because the property is being used for commercial purpose at a later point of time, it may not be a relevant criterion for assessing the value for the purpose of stamp duty. The nature of user is relatable to the date of purchase and it is relevant for the purpose of calculation of stamp duty. Therefore, it is clear that the usage of the land in future cannot be a basis for assessing the value. In the present case, as per the report of the second respondent, on the date of purchase i.e., on 29.11.2007, the land was only an agricultural land. Even in the year 2010, as per the report of the District Registrar dated 25.2.2010, the land was only being developed to make a lay out of housing plots. Even on the date of inspection by the District Registrar, the lands were not plotted out as house sites. Therefore, in my considered opinion, the intention of usage of land in future cannot be a basis for estimating the value of the property for the purpose of calculation of stamp duty. Hence, the



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impugned order passed by the first respondent based on the report of the District Registrar in the year 2010 in respect of the land purchased by the appellant in the year 2007, is not legally sustainable and as such, the same is liable to be dismissed.”

10. Considering the above, the legal position is very clear that the market value of the property has to be determined with reference to the date on which the document is executed and the nature of the user is relatable to the date of purchase and that the usage of the land in future cannot be a basis for assessing the value. No doubt, the market value as such keeps on varying and changing, but any subsequent change in the nature or use of the land, which may result in the enhancement of the market value of the property is not to be taken into account and it is only the value of the property on the date of execution of the document that is to be considered for the purpose of determination of the proper stamp duty payable on the document. It is pertinent to note that the market value of the land cannot be determined with reference to the use of the land to which the buyer intends to put it and the market value is what a general buyer may offer and what the owner may reasonably expect.



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11. Now coming to the case on hand, as already pointed out, the reasons assigned by the first respondent are that the appellant Company and another company by name Sabari Industrial Power Plant are situated nearby the property in question, that there was no agricultural operation in the land in question and that therefore, he was fixing the value of the property at Rs.650/- per sq.metre. The District Registrar (Administration), Pudukottai District in his report submitted to the first respondent, has observed that the property in question was only for the company's expansion. The second respondent in his proceedings has assigned the reasons that the lands were without agricultural operation for long time and are with karuvelam trees, that the sale was taken in the name of the Company and as such, there is no scope for different user and that therefore, since the land in dispute cannot be considered as agricultural land, he decided to fix the value at Rs.755/- per sq.metre. Admittedly, the appellant has paid the stamp duty by valuing the land in question at Rs.7.70Lakhs, which is more than the guideline value.

12. According to the respondents, they were presuming that the property in dispute would be utilized for the expansion of the appellant



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Company in future. As rightly contended by the learned Counsel for the appellant, it is not the case of the respondents that the lands in that area have already been declared as commercial lands. As per the legal position above referred and as rightly contended by the learned Counsel for the appellant, the intention of usage of land in future cannot be a basis for estimating the value of the property for the purpose of calculation of stamp duty. Considering the above, the impugned order passed by the first respondent in Na.Ka.No.37503/N3/2017, dated 06.01.2022 is legally unsustainable and the same is liable to be set aside.

13. In the result, the Civil Miscellaneous Appeal is allowed and the impugned order passed by the first respondent in Na.Ka.No. 37503/N3/2017, dated 06.01.2022 is set aside. Consequently, the connected Civil Miscellaneous Petition is closed. No costs.

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Index : Yes : No
Internet : Yes : No

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To

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1. Tamil Nadu Chief Revenue Controlling Officer,
cum Head of Registration Department,
Inspector General of Registration,
No.120, Shanthom High Road,
Chennai-620 028.
2. The Special Deputy Collector (Stamps),
Collector Office Building,
Trichy District,
Trichirappalli-620 001.
3. The Sub Registrar,
Kulathur Sub Registrar Office,
Kulathur,
Pudukottai District.
4. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

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