BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.04.2022**

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A(MD)No.407 of 2019
and C.M.P(MD).No.4858 of 2019

R.Periya Thambi ... Appellant

vs.

1.The Tamil Nadu Principal Revenue Control Officer,
Cum the Inspector General of Registration,
Inspector General of Registration Office,
Santhom High Road,
Chennai.

2.The Sub-Registrar,
Joint No.3, Sub-Registrar's Office,
Trichy, Trichy District.

3.The Special Sub-Collector, (Stamps)
District Collector's Office,
Trichy-1,
Trichy District. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47(10) of Stamp Act 1899, to set aside the order made in Na.Ka.No.58459/N3/2016 dated 13.12.2018 on the file of the first respondent, modifying the order made in T.P.No.1449/2016 dated 16.11.2016 on the file of the third respondent by allowing this appeal.

For Appellant : Mr.Ajmal Khan
Senior counsel
For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

JUDGMENT
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This appeal has been filed by the purchaser to the extent of 3,645 square feet of the land in sale deed, dated 21.07.2016 in document No.2918 of 2016 at the Sub Registrar, Joint No.3, Sub Registrar's Office, Trichy, Trichy District.

2. After registration of the document, stamp duty was imposed and there was an undervaluation of price in respect of the land conveyed in the above said sale deed and the Sub Registrar has levied a sum of Rs.75. The subject matter of the land is the commercial land and assessed at Rs.750. Challenging the same, the present appeal has been filed.

3. After conducting the investigation, the Inspector General of Registration has revised the value of the land at Rs.400/- per square feet. The same is challenged in the present appeal. The main challenge in the appeal is that there is no speaking order passed by the Inspector General of Registration in respect of the appeal filed by the purchaser, wherein a specific ground has been raised to the effect that what was purchased is an agricultural land and not a commercial land in the nature of plot, so as to warrant assessment of the land value by square feet, rather it should have been per cent as per the agricultural land. The Revenue Divisional Officer has reduced a small extent of the cost of the land. On appeal, the Inspector General of Registration has further reduced the cost, based upon the report obtained from the lower officer.

4.Mr.M.Ajmal Khan, learned Senior Counsel for the appellant would contend that the subjective satisfaction as required under the Administrative Law for accepting the report or considering the grounds raised, is not reflected in the order and hence, the order is challenged in the appeal. He further would contend that the points raised in the appeal were not considered by the Inspector General of Registration while passing the order and the order impugned herein was passed based only on the report of the Field Officer and hence, the impugned order suffers from non-application of mind.

5. The learned Additional Government Pleader would submit that the value of the land for the purpose of registration under the Tamil Nadu Registration Act is fixed based on three categories: (1) depending upon the vicinity of the land; (2) based on the market value fixed for the nearby land and (3) possible future development of the particular land. Based on the report of the second respondent, an order was passed and subsequently, on appeal, the first respondent has revised the amount and on further appeal, the Inspector General of Registration has revised the value of the land at Rs.400/- per square feet. As per the Field Inspection Report, the land in dispute is 100 meters closer to Devathana Pallathu Theru and 1 k.m away from Chathiram Bus Stand, Trichy. To ascertain whether any cultivation is being carried out in the land in question and regarding the classification of the said land by the Revenue

Department, were ascertained from field report.

6. In the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, the principle for determination of market value, wherein various categories of land, the different methods has been prescribed as to the scope of Rule 5 and the value of the adjacent land in the vicinity cannot prevent the Court from fixing the value on the basis of other matters referred to in Rule 5.

7. The main grievances of the appellant/purchaser is that it is an agricultural land. According to the State, it can be used for commercial purpose for laying out and on separate inspection by the Deputy Inspector General of Registration, irrigation facilities that are said to have available is absent and there is no evidence of any agricultural activities being carried on in the near by area. The appellant also relied upon the Certificate issued by the Village Administrative Officer that the subject matter of the land is near by a burial ground. The value of the land for the purpose of registration under the Tamil Nadu Registration Act is fixed based on three categories: (i) depending upon the vicinity of the land; (2) market value fixed on on the nearby land and (3) possible future development of the particular land.

8. On perusal of records, it shows that the impugned order has been passed without considering the second point raised by the appellant. Only based upon the report of the Field Officer, the impugned order has been passed and hence, this Court is inclined to allow the appeal. However, the matter is remitted back to the Inspector General of Registration to serve the copy of the report of the Field Officer to the appellant/purchaser and also consider the points raised in the grounds and to render a specific finding a reason for rejection. The said exercise shall be completed within a period of six months from the date of receipt of copy of this order.

9. In the result, this Civil Miscellaneous Appeal is partly allowed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

TTA

To

1.1.The Tamil Nadu Principal Revenue Control Officer,
Cum the Inspector General of Registration,
Inspector General of Registration Office,
Santhom High Road,
Chennai.

2.The Sub-Registrar,
Joint No.3, Sub-Registrar's Office,
Trichy,
Trichy District.

3.The Special Sub-Collector, (Stamps)
District Collector's Office,
Trichy-1,
Trichy District.

4.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-23281[F] dated 04/05/2022)

+1 CC to M/s.SPL.GP (SR-23447[F] dated 04/05/2022)

JUDGMENT MADE IN
C.M.A(MD)No.407 of 2019
29.04.2022

ac(CO)
TR(25.05.2022) 4P 8C