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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A. No.2822 of 2022

Judgment reserved on 08.08.2023	Judgment pronounced on .08.2023
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T.Muthurajalingam

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Appellant

Vs

1.The Tamil Nadu Inspector General of Registration
cum Chief Controlling Revenue Authority,
Chennai – 600 028.

2.The Special Deputy Collector (Stamps)
Tiruchirapalli – 620 001.

3.The District Registrar (Administration)
Tiruchirapalli – 620 001.

4. The Sub-Registrar,
K.Sathanur,
Tiruchirapalli – 620 021.

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Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 47 A (10) of the Indian Stamps Act 1899, against the order dated 12.11.2019 made in Na.Ka.No.2225/N3/2019, on the file of the Tamil Nadu Inspector



General of Registration cum Chief Controlling Revenue Authority, Chennai modifying the order dated 19.11.2016 made in Tha.Pa.No.32/2016 on the file of the Special Deputy Collector (Stamps), Tiruchirapalli.

For Appellant : Mr.Kandhan Duraismi

For Respondent : Mr.P.Harish,
Govt. Advocate.

J U D G M E N T

This Civil Miscellaneous Appeal has been filed challenging the order dated 12.11.2019 passed by the first respondent herein directing the appellant to pay the deficit stamp duty.

2. The brief facts leading to the above appeal are as follows -

(a) The appellant purchased a property measuring 4.55 acres in SF No.192/2B of Kottampattu Village by virtue of a sale deed dated 29.12.2015 bearing document No.6346/2014 on the file of SRO, K.Sathanur for a total sale consideration of Rs.6,82,50,000/- at the rate of Rs.1,50,000/- per acre.



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(b) The 4th respondent herein referred the sale deed to the 2nd respondent stating that the appellant had not paid proper stamp duty. The 2nd respondent initiated proceedings under Section 47 of the Indian Stamp Act and issued a notice demanding Rs.77,08,974/- as deficit stamp duty from the appellant. The appellant appeared and submitted that the land was agricultural dry land and stated that the claim for deficit stamp duty was not incorrect.

(c) The 2nd respondent thereafter passed an order on 19.11.2016 valuing the land at Rs.2,99,69,280/- per acre.

(d) The appellant challenged the said order of the 2nd respondent before the 1st respondent herein. The 1st respondent held that the land is not agricultural land and valued the land at Rs.1,96,02,000/, i.e. Rs.450/- per sq. ft.

(e) The appellant preferred CMA No.2404 of 2018 before this Court challenging the said order of the 1st respondent dated 23.08.2018. This Court, by order dated 21.10.2018, set aside the order of the 1st respondent and directed the 1st respondent to conduct fresh enquiry.



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(f) The 1st respondent conducted an enquiry and passed an order dated 12.11.2019 fixing the value of the land at Rs.1,74,40,000/- per acre and directed the appellant to pay the difference in stamp duty. The said order is impugned in the present appeal.

3 (a) Mr.Kandhan Duraisami, learned counsel appearing for the appellant, submitted that the 1st respondent had disobeyed the orders of this Court in CMA No.2404 of 2018 wherein this Court had directed the 1st respondent to conduct an inspection after giving notice to the appellant and thereafter pass final orders. The 1st respondent had not inspected the property, as directed by this Court. Instead, the 1st respondent had relied upon the inspection report of the District Registrar, Trichy and without any basis fixed the value of the land at Rs.1,74,40,000/-, i.e. Rs.400/- per sq. ft.

3 (b) The learned counsel further submitted that in any case, even on merits, the impugned order is not sustainable as the report of the District Registrar, Trichy, states that in view of the proximity of the land to the Airport, there was no possibility of constructing high rise building



in the land in question. That being the case, the order of the 1st respondent treating the land on par with the neighbouring lands wherein there was a layout developed is erroneous. Had the 1st respondent inspected the land, it would have been clear to him that the land was only agricultural land. The learned counsel further submitted that the reason for fixing the value as Rs.1,74,40,000/- is that the land in question was situated near a street called samiyar street ; that it was close to the Trichy Airport, and that there were layouts in and around the disputed land. The learned counsel submitted that this approach is contrary to the settled position of law that while valuing the property, the nature of the property as it was at the time of sale should be reckoned and not the value it would fetch at a later point in time. The learned counsel relied upon the following judgments in support of his contention -

(i) 2012 (5) SCC 566 [State of Uttar Pradesh and Others v. Ambrish Tandon and another]

(ii) 2015 (6) MLJ 129 [Special Deputy Collector (Stamps) Chennai Collectorate, Singaravelar Maligai, Chennai vs. Thajunnisa and Others]

(iii) 2014 (5) L.W. 280 [Karpagavinayaga Associates vs. The Inspector General of Registration of Tamil Nadu cum Chief Controlling Revenue Authority, chennai and 2 others]



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3 (c) The learned counsel submitted that at the time of sale, his land was agricultural land, and the report of the District Registrar, Trichy confirms that the land was not developed and hence the order of the 1st respondent fixing the value on the premise that the land can be developed into a layout and therefore it has to be valued higher is unsustainable.

4. Per contra, the learned Government Advocate appearing for the respondents submitted that the report of the District Registrar, Trichy, which is the basis for the impugned order shows that there was a sale deed of property in the very same survey number for an extent of one acre in the year 2012 and registered as document No.4937 of 2012 showing the value of land as Rs.899/- per sq. ft. Considering the said sale deed and the fact that there was no possibility of any high rise buildings the District Registrar, Trichy recommended fixing Rs.2,00,00,000/- per acre for the land in question. The first respondent had fairly reduced that value recommended by the District Registrar and fixed it at Rs.1,74,40,000/-. The 1st respondent had also taken into consideration that the guideline value fixed for neighbouring land was Rs.505/- per sq. ft. The learned Government Advocate therefore submitted that the impugned order was



fair and had taken into consideration all the facts and, in fact reduced the value suggested by the District Registrar in his report and hence prayed for dismissal of the appeal.

5. Heard the learned counsel appearing for the appellant as well the learned Government Advocate appearing for the respondents and perused the materials available on record.

6. The facts narrated above would show that the initial claim of the 2nd respondent was that the appellant was liable to pay Rs.77,08,974/- as deficit stamp duty. Thereafter, the 2nd respondent, after hearing the appellant reduced the deficit stamp duty to be paid by the appellant to Rs.47,73,356/-. Though this Court had specifically directed the 1st respondent to strictly comply with Rule 11-A of the Tamil Nadu (Prevention of Undervaluation of Instruments) Rules 1968 and conduct an inspection, after giving notice to the appellant, it is seen that the 1st respondent had not personally inspected the property. However, considering the fact that it is not humanly possible for the 1st respondent



to personally inspect all the properties, this Court is of the view that such direction has to be construed as a direction to the 1st respondent to cause inspection. The 3rd respondent, as District Registrar, had inspected the property on behalf of the 1st respondent. Hence, it cannot be said that the 1st respondent had violated the directions of this Court.

7. The next question is whether the 1st respondent was right in fixing the value of the property at Rs.1,74,40,000/- per acre.

7(a) The District Registrar, Trichy, after inspection, had filed the report, as stated earlier, stating that the frontage which has access to the National Highway of the disputed property was to the extent of 130 feet whereas the length of the property from East to West was 350 meters. Therefore, the District Registrar, in his report, opined that this land cannot be compared with other lands which are situated on the National Highway itself. The District Registrar also found that since the land is proximate to the Airport, it was not possible to construct high rise buildings. This Court is of the view that the nature of the land at the time of execution of the sale deed should be the relevant factor for determining the value. Even in the



inspection, which was done four years after the date of the sale deed, the District Registrar found that though the lands abutting disputed land were developed, the subject land was under developed and, it was not put to any agricultural use. In this regard, the relevant portion of the observations of the Hon'ble Supreme Court in the judgment in ***Ambrish Tandon's*** cited supra is extracted hereunder for better understanding -

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(b) This court, in the judgment in ***Karpagavinayaga Associates'*** ***case*** cited supra, following the above said judgment of the Hon'ble Apex Court, held that merely because the property is likely to be used for commercial purposes at a later point of time, the value cannot be fixed treating it as commercial property. The Hon'ble Division Bench of this



Court, in the judgment reported in ***Thajunnisa's case***, cited supra, had held that in order to determine the value, the nature of land at the time of sale should be considered. The relevant para is extracted hereunder -

11. At this juncture, at the risk of repetition, this Court pertinently points out that in the instant case on the date of registration, viz., on 11.04.1997, admittedly the lands in question are agricultural lands and only after 5 = years later, after the registration of the documents, the Deputy Inspector General of Registration was of the opinion that the lands were capable of being converted into house sites and made a representation for the revision of land value. Suffice it for this Court to pinpoint that in this case, no tangible materials were available before the authorities atleast to come to a tentative conclusion that the value of the property described in the sale deeds were not properly described. Apart from that, even the *Suo Moto* power as contemplated under Sub-Section 3 of 47 A of the Indian Stamp Act, 1899 was clearly out of bounds of the limitation period specified thereunder. Viewed in that perspective, the order of the Second Appellant dated 08.04.2002 and the subsequent confirmation order of the First Appellant/First Respondent dated 09.01.2003 are invalid and illegal by this Court. In this regard, this Court is in complete agreement with the view taken by the Learned Single Judge in quashing the aforesaid two orders and allowing the Writ Petition. Consequently, the Writ Appeal fails.

7 (c) From the above judgments, it is clear that merely because the land is likely to be developed at a later point in time which would enhance its value, the respondents cannot fix a higher value. Admittedly, at the time of sale, the land was agricultural land. Even as per the report of the District Registrar, four years later, the land remained dry land.



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Therefore, the order of the 1st respondent fixing higher value based on the fact that there are house sites around the land and this land is also capable of being developed into a layout is erroneous. For the above reasons, this Court is of the view that the impugned order of the 1st respondent dated 12.11.2019 is liable to be set aside, and it is accordingly set aside.

8. In the result, this Civil Miscellaneous Appeal is allowed setting aside the order dated 12.11.2019 made in Na.Ka.No.2225/N3/2019 on the file of the Tamil Nadu Inspector General of Registration cum Chief Controlling Revenue Authority, Chennai. No costs.

16.08.2023**rgr**

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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SUNDER MOHAN, J.

rgt

To

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