IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2023

CORAM :

THE HONOURABLE **MR.JUSTICE SUNDER MOHAN**

C.M.A.Nos.1423 and 1424 of 2023
and C.M.P. Nos.14149 and 14156 of 2023

1.Thiru. Vasu ... Appellant in C.M.A.No.1423/2023

2.M/s. JSR Infra Developers Pvt Ltd,
Rep by its Authorized signatory Mr. Karthikeyan,
having registered Office at 4th Floor,
JSR Castle, No.17, Vijayaraghava Road,
T.Nagar, Chennai-600 017 ... Appellant in C.M.A.No.1424/2023

Vs.

1.The Tamil Nadu Principal
Revenue Control Officer Authority & Inspector General of Registration, No.100, Santhome High Road,
Santhome, Chennai – 600 028.

2.The Special Deputy Collector, (Stamps),
Sathuvachari, Vellore District, Vellore – 632 009.

3.The Sub Registrar,
No.46, Vellore Road, Tharapadavedu Village,
Katpadi- 632 007. ......Respondents in both C.M.As

PRAYER: This Civil Miscellaneous Appeal is filed under Section 47 (A)(10) of Indian Stamp Act, 1899, prays to set aside the impugned order dated 25.04.2023 passed by the 1st respondent in proceeding No.18756/U1/2022 on the file of the 1st Respondent.

For Appellant in C.M.A.No.1423/2023 : Mr.A.R.Lakshmi Narayanan

For Appellant in C.M.A.No.1424/2023 : Mr.Vaibhav R Venkatesh

For Respondents in both C.M.As : Mr.R. Ramanlal,
Additional Advocate General-IV
Assisted by Mr.P.Harish
Government Advocate

JUDGMENT

The above appeals have been preferred challenging the orders passed under Section 47-A(6) of the Indian Stamp Act.

2. The brief facts of the case leading to the filing of the Civil Miscellaneous Appeals by the appellants are as follows:-

a) on 28.05.2014, a company by name North Arcot District Timber Ex Service Man Co-operative Timber and Blocksmith Workers and Services limited desirous of selling a property sent a letter to the Tahsildar to fix the value of the land in Survey Nos.664/2B and 665/5 in Katpadi Taluk, Vellore District which was sought to be sold on 29.05.2014. The Tahsildar fixed the value of the land at Rs.1040 per sq.foot.

b) on 30.10.2014, the aforesaid company gave an advertisement to sell two acres of land in above mentioned Survey Nos by public auction on 27.11.2014. The appellant in C.M.A.No.1423 of 2023 was the highest bidder and sought to purchase the property for a consideration of Rs.1065 per sq.ft. The total sale consideration for the land measuring 87,120 sq.ft. was Rs.9,27,82,800/-.The company had executed a sale deed on 27.11.2014 vide document No.10164/2014 registered on the file of SRO, Katpadi. The Sub-Registrar, Katpadi referred the matter to District Collector under Section 47 A(1) of Indian Stamp Act. On 15.04.2015, the District Collector fixed the value as Rs.1065 per sq.ft which is the value mentioned in the document.

c) On 09.09.2015, the appellant in C.M.A.No.1423 of 2023 sold the property to the appellant in C.M.A.No.1424 of 2023. The value of the property in the said sale deed was shown as Rs.1067 per sq.ft. On 22.09.2015, the Special Deputy Tahsildar fixed the market rate as Rs.1200/- per sq.ft. Though the said order was not passed under reference, the appellant in C.M.A.No.1423 of 2023 paid the stamp duty as per the value determined by the Special Deputy Tahsildar.

d) On 16.08.2022, the 1st respondent initiated proceedings suo motu under Section 47 A(6) of the Stamp Act and sought to fix the value of the property at Rs.2000/- per sq.ft in respect of both the sales. Thereafter, on 25.04.2023, the appellants objected to the said suo motu proceedings and sent their explanation on 12.09.2022.

e) On 25.04.2023, the 1st respondent not satisfied with the reply given by the appellants passed orders determining the value of the property at Rs.2000/- per sq.ft and directed the appellants to pay difference in the stamp duty. Aggrieved by the said impugned orders, the above appeals have been preferred.

3. The learned counsel for the appellant submitted that in respect of the sale deed which is the subject matter in C.M.A.No.1423 of 2023, the impugned order was passed beyond the period prescribed under Section 47 A(6) of the Stamp Act; that the District Collector had passed the order on 15.04.2015; and that the 1st respondent had passed the impugned order on 25.04.2023. As regards the sale deed which is the subject matter in C.M.A.No.1424 of 2023, the learned counsel for the appellant submitted that besides the fact that the said order is beyond the period of five years from the date of sale, the power of revision can be exercised only if an order is passed by the Collector and that since no order was passed by the Collector, the 1st respondent has no jurisdiction to pass an order under Section 47 A(6) of the Stamp Act. Therefore, the learned counsel prayed for setting aside the two impugned orders.

4. Mr.R.Raman Lal, learned Additional Advocate General-IV assisted by Mr.P.Harish, learned Government Advocate for the respondents submitted that the property was under valued in the document. Since there was a doubt

in the valuation and there were complaints by certain third parties, the Department had referred the documents to the Vigilance Commission. The Vigilance Commission had also initiated criminal proceedings and a FIR in crime No.11 of 2018 was registered against the appellants. Thereafter, though the FIR was closed, it was found by the Department that the value at the relevant point of time was Rs.2000/- per sq.ft and therefore, submitted that there is no infirmity in the order passed by the 1st respondent.

5. The admitted facts are that the property for which the stamp duty sought to be levied was sold in the year 2014 in favour of the appellant in C.M.A.No.1423 of 2023. Thereafter, the appellant in C.M.A.No.1423 of 2023 sold it to the appellant in C.M.A.No.1424 of 2023. The District Collector had determined the value of the land as Rs.1065/- per Sq.foot on 15.04.2015 on the reference made by the Sub-Registrar in respect of the document in favour of the appellant in C.M.A.No.1423 of 2023. The 1st respondent had initiated suo motu proceedings on 16.08.2022 under Section 47 A(6) of the Stamp Act. In respect of the sale deed dated 09.09.2015 which is the subject matter in C.M.A.No.1424 of 2023, the Special Deputy Tahsildar fixed the value as

Rs.1200/- per sq.ft and stamp duty was paid by the appellant accordingly. There was no order passed by the Collector.

6. It would be useful to refer to Sections 47 A(6)and 47 A(7) of the Stamp Act which reads as follows:-

> *"Section 47-A(6):The Chief Controlling Revenue Authority may, suo motu, call for and examine an order passed under sub-section (2) or sub-section (3) and if such order is prejudicial to the interests of revenue, he may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may initiate proceedings to revise, modify or set aside such order and may pass such order thereon as he thinks fit.*
>
> *Section 47-A(7): The Chief Controlling Revenue Authority shall not initiate proceedings against any order passed under sub-section (2) or sub-section(3) if,*
>
> *(a) the time for appeal against that order has not expired; or*
>
> *(b) more than five years have expired after the passing of such order".*

7. As stated earlier by the impugned order in C.M.A.No.1423 of 2023, the first respondent by the order dated 16.08.2022 seeks to modify the order of the Collector which was passed on 15.04.2015. Likewise, for the sale deed executed on 09.09.2015, the first respondent passed the impugned order in C.M.A.No.1424 of 2023. The actions have been taken beyond the period of five years and hence, the same is unsustainable in view of the clear mandate of the statute. This position has been reiterated in several decisions of this Court. Therefore, merely because the respondents had been contemplating action internally, the limitation provided under the Statute cannot be ignored. Therefore, this Court is of the view that the impugned orders, pursuant to an action taken beyond the period of five years from the order of Collector and from the date of sale deed cannot be sustained. That apart, this Court finds that the order which is impugned in C.M.A.No.1424 of 2023 is liable to be set aside for yet another reason. There is no order passed by the Deputy Collector which would empower the 1st respondent to review. Therefore, for the aforesaid reasons, the impugned orders are liable to be set aside.

8. Accordingly, the civil miscellaneous appeals are allowed. Consequently, connected miscellaneous petitions are closed.

15.09.2023

Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No
nr

To

1.The Tamil Nadu Principal
Revenue Control Officer Authority & Inspector General of Registration, No.100, Santhome High Road,
Santhome, Chennai – 600 028.

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SUNDER MOHAN, J.

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