IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.2419 of 2023
and C.M.P.No.22753 of 2023

Senthilkumar ... Appellant

Vs.

1.The Chief Controlling Revenue Authority and
Inspector General of Registration,
Santhome High Road, Chennai-28.

2.The Special Deputy Collector (Stamps),
No.50, SankarA Naidu Street,
Thirupathipuliyur, Cuddalore.

3.The Joint Sub-Registrar No.1,
Sub-Registrar Office,
Kallakurichi. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 47A(10) of Indian Stamp Act, seeking to allow the present appeal by setting aside the order of the first respondent herein in his proceedings dated 18.07.2023 in Na.Ka.No.29086/N3/2021 as prayed for in this Civil Miscellaneous Appeal with cost.

For Appellant : Mr.R.Nalliyappan

For Respondents : Mr.M.R.Gokul Krishnan
Additional Government Pleader

JUDGMENT

The appellant herein is a purchaser of a property under sale deed dated 05.07.2021, and registered as No.1256 of 2021. The document, however was taken up for assessing the correctness of the valuation stated under Section 47 A of the Indian Stamp Act,1899. The second respondent herein vide his proceedings dated 30.07.2021 required the appellant to pay an additional stamp duty of Rs.9,93,900/- over and above the stamp duty paid by the appellant.

2.According to the appellant, he had purchased a property to an extent of 2.50 acres in Survey No.48/1, 54/1 and 54/2, situated at Latchiyam Village, Kallakurichi District, for a total sale consideration of Rs.3,95,000/-. According to the second respondent, the value of the property would be Rs.58,37,000/- per acre, and required the appellant to pay a sum of Rs.10,05,000/- as stamp duty. After deducting the stamp duty already paid on the sale deed, the authority, in effect required the petitioner to pay Rs.9,93,900/- over and above the stamp duty. This is now under challenge.

3.Learned counsel for the appellant took this Court through the proceedings of the second respondent dated 30.07.2021, wherein he had arrived at a notional value of Rs.58,000/- to 59,000/- per cent on his presumption that the property has all the potential to be developed into a layout in future. Aggrieved by the order of the second respondent, the appellant preferred an appeal to the first respondent, which by its proceedings dated 18.07.2023 confirmed the order of the second respondent. Indeed, it has adopted the same line of reasoning.

4.Heard Mr.R.Nalliyappan, the learned counsel for the appellant, and Mr.M.R.Gokul Krishnan, the learned Additional Government Pleader appearing for the respondents 1 to 3.

5.The learned counsel for the appellant submitted that the orders of the first and second respondents are erroneous since they attempt to determine the value of the property based on its potential in the future, rather than its current character. This is definitely not the intention of the statue.

6.This Court has little hesitation to hold that both the authorities have taken considerable freedom to travel beyond the limits of the statute. The authorities constituted under the Stamp Act are only required to ascertain whether there is any evasion of stamp duty on the just and market value of the property. The suitability of the property for a different user is not something that supports the statutory intent. The authorities are not here to impose their personal notions in determining the stamp duty payable. The character of the property at the time of the transaction alone is a criterion that should influence the decision of these authorities. Very unfortunately, neither of the authorities seem to have thought it fit to confirm to the statutory prescription.

7.This Court finds that, other than the ground raised, there is no other ground is asserted by the authorities for fastening additional liability to pay additional stamp duty. In other words, given the character of the property at the time of registering it, its value as stated satisfies the statutory requirement. The frills and embroideries which the authorities added to it through their impugned proceedings, if removed would confirm to mere statutory requirement.

8.In these circumstances, this Court not only is constrained to set aside the impugned proceeding of the first respondent dated 18.07.2023 but also direct the second respondent to release the sale deed registered as No.1256 of 2021 forthwith to the appellant.

9.The Civil Miscellaneous Appeal stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

30.10.2023

Anu
Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No
To

1.The Chief Controlling Revenue Authority and
Inspector General of Registration,
Santhome High Road, Chennai-28.

2.The Special Deputy Collector (Stamps),
No.50, SankarA Naidu Street,
Thirupathipuliyur, Cuddalore.

3.The Joint Sub-Registrar No.1,
Sub-Registrar Office,

Kallakurichi.

N.SESHASAYEE, J.
Anu

C.M.A.No.2419 of 2023
and C.M.P.No.22753 of 2023

30.10.2023