**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**RESERVED ON : 16.02.2023**

**PRONOUNCED ON : 15.03.2023**

CORAM

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN**

**CMA No.388 of 2023**

Mrs.D.Naditha Iswarya .. Appellant

Vs.

1. The Inspector General of Registration,
No.120, Santhome High Road,
Chennai – 600 028.

2. The District Revenue Officer (Stamps),
District Collectorate Office,
Coimbatore.

3. The District Registrar,
KPN Colony, Valipalayam,
Thirupur – 641 602.

4. The Joint Registrar No.I,
(District Registrar Cadre),
District Revenue Office,
Thirupur. .. Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 47-A (1) of Indian Stamp Act, 1899, to set aside the order passed by the 1st respondent in Mu.Mu.No.17256/N2/2022 dated 03.08.2022 and the order passed by the 2nd respondent in Order No.614/T/2014 dated 15.10.2014 and 20.10.2014 and consequently, direct the respondents to conduct the proceeding after affording an opportunity to the appellant and fix the market value in a fair and impartial manner as per the year 2014 for the land comprised in Old S.No.1/1, R.s.No.1/3 & Sub division S.No.1/3 B2B measuring an extent of 1.00 acre situated at Muthanampalayam Village, Tiruppur Corporation, Tiruppur South Taluk registered vide Sale Deed Doc.No.5836/2014 on 30.06.2014.

For Appellants : Mr. Mohamed Riyaz
for Mr.S.Sathyaraj

For Respondents : Mr.C.Jayaprakash
Government Advocate

## JUDGMENT

The unsuccessful petitioner is the appellant herein.

2. Brief facts necessary for determination of this appeal are as under:

(i) The appellant has purchased an agricultural Punja Land comprised in Old S.No.1/1, R.S.No.1/3 & sub division S.No.1/3B2B measuring an extent of 1.00 acre situated at Muthanampalayam Village, Tiruppur Corporation, Tiruppur South Taluk from one Mani for a sale consideration of Rs.1,00,000/- (Rupees One Lakh only) on 12.11.2004. Due to financial necessity, she had decided to sell the above agricultural land and executed a Power of Attorney in favour of her father Duraisamy vide a POA Doc.No.4821 dated 21.05.2014.

(ii) Thereafter, the appellant sold the abovestated land vide Sale Deed 5836/2014 on 30.06.2014 represented by her POA to and in favour of Knitcare, a partnership firm for a sale consideration of Rs.30,00,000/- (Rupees Thirty Lakhs Only). The said amount of Rs.30,00,000/- has been received by the appellant by way of cheque No.275597 dated 30.06.2014 and the same has been encashed by the appellant. Although the appellant has sold the property for a sum of Rs.30,00,000/- the purchaser has valued the land as Rs.65,40,100/-, since it was the prevailing Guideline Value.

(iii) Though the purchaser has properly valued the subject property, the 4th respondent has referred the document for fixation of the market value of the land under Section 47A of the Indian Stamp Act.

(iv) Though the appellant has sold the property for a sum of Rs.30,00,000/-, the purchaser has valued the land as per the prevailing Guideline Value of Rs.65,40,100/- and paid the stamp duty to the

Government even though the said sale deed has been referred by the 2nd respondent for fixation of market value.

(v) The appellant came to know through her father that Income Tax department has initiated a proceeding for the agricultural land sold by the appellant represented by the Power of Attorney, was valued for a huge sum of Rs.1,19,90,100/- [One Crore Nineteen Lakhs Ninety Thousand One Hundred Rupees].

(vi) The 2nd respondent without issuing notice to the appellant proceeded under Section 47(A) of the Indian Stamp Act and also without affording an opportunity to her and also without hearing her, fixed the market value of the agricultural land as Rs.1,19,90,100/- [One Crore Nineteen Lakhs Ninety Thousand One Hundred Rupees], which is violative of principles of natural justice.

(vii) Though the purchaser is liable to pay the stamp duty to the Government, the appellant has to face the Legal issue with the Income Tax Department on account of Capital Gains for a value which she has neither received from the purchaser, nor intimated by the 2nd respondent about any such proceedings as per law. The 2nd respondent has not sent notice to the appellant regarding the proceedings and so she was not aware of the proceedings. The 2nd respondent without giving an opportunity, conducted the proceedings in an unfair manner, which is against the principles of natural justice.

(viii) Further, based upon the above factual position, after receipt of income tax notices, the appellant herein filed an appeal before the 1st respondent. In the said appeal, the 1st respondent-Inspector General of Registration has observed that the time limit for filing an appeal under Section 47(A) 5 of the Act, is two months, while the present appeal was filed after a lapse of 7½ years and accordingly, rejected the claim and hence, the Civil Miscellaneous Petition.

3. Heard the submissions made by the learned counsel for the appellant and the learned Government Advocate and perused the documents.

4. Learned counsel for the appellant could contend that in the impugned order, the 1st respondent has given a finding that the subject land is an agricultural land and the 2nd respondent has arrived at the marked value as under

| Survey No. | Value per acre | Value per cent |
|---|---|---|
| 1/3 | Rs.50,00,000/- | Rs.5,000/- |
| 1/2 | Rs.18,00,000/- | Rs.1,800/- |
| 1/4 | Rs.20,00,000/- | Rs.2,000/- |

and further contended that the land is an uncultivated land and the subject land has been already valued for higher rate of Rs.65,40,100/- which is double than the sale consideration of Rs.30,00,000/- and in such circumstances, the 2nd respondent without any basis fixed the value of the land as Rs.1,19,90,100/- [One Crore Nineteen Lakhs Ninety Thousand One Hundred Rupees], which is erroneous.

5. The prime contention of the learned counsel for the appellant is that the 2nd respondent viz., District Revenue Officer (Stamps) without issuing notice to the appellant and without giving an opportunity of hearing, fixed the market value of the agricultural land as Rs.1,19,90,100/-.

6. The appellant has sold the land to the purchased from one Mani to a Partnership firm-Knitcare as could be seen from the sale deed annexed with the typed set of papers. The sale consideration is mentioned as Rs.30,00,000/- and is paid by way of cheque. The value of the land was declared by the executant of the Document as Rs.65,40,100/-, as per the guideline value and hence, the Sub Registrar has referred the matter for proceedings under Section 47 (A) of the Indian Stamp Act. After the enquiry, the same has been revised as Rs.1,19,90,000/- by the 2nd respondent.

7. It appears that the purchaser has paid the amount and taken the sale deed. After some time, based upon the source information, it appears that the legal proceedings have been initiated by the Income tax Department under the Income Tax Act for the Assessment Year 2015-16 dated 26.02.2020, calling upon the appellant herein to pay the Capital Gains taxes.

8. At this juncture, it appears that the appellant has moved the above appeal before the 1st respondent-Inspector General of Registration. However, the same was rejected as out of time. The period of delay is 7 ½

years. After going through the documents filed before the 1st respondent and as well as the grounds of appeal, there is no whisper regarding the huge delay of 7 ½ years.

9. According to the appellant, no notice was issued before revising the market value. Admittedly, the purchaser has paid the difference of stamp duty and got the document released and hence, I find that this attempt to file an appeal before the 1st respondent is only a resue, to escape from the Income Tax proceedings. Moreover, no reason has been assigned either in the affidavit filed before the 1st respondent or here in this case ,regarding the huge delay of 7 ½ years. Mere bald allegations that she was not aware cannot be countenanced and since the appeal filed before the 1st respondent is belated by 7 ½ years, i am not inclined to admit the case.

10. In the result, the Civil Miscellaneous Appeal is dismissed. No Costs.

**15.03.2023**

Index : Yes/No
Speaking/Non-Speaking Order
Neutral Citation : Yes/No.
*ars*

To

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**RMT.TEEKAA RAMAN,J.,**
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**Pre-delivery Judgment in**
**CMA No.388 of 2023**

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