WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.M.A.No.130 of 2021
and CMP.No.875 of 2021

1. P.V.Rajendran

2. Nagarathinam … Appellants

-vs-

1. The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road, Chennai.

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

3. The Special Tahsildar (Stamps)
Coimbatore.

4. The Sub Registrar,
Mettupalayam, Coimbatore. ... Respondents

Prayer:- Civil Miscellaneous Appeal Petition filed under Sub Section (10) of section 47-A of the Indian Stamp Act, 1899 read with Rule 9 of the Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 196, to set aside the order of the first respondent by proceedings dated 08.09.2015 in No.34/447/N2/2015 and the order of the second respondent by proceeding dated 18.10.2005 in Mu.No.5836/m/01.

For Appellants : Mr.P.Saravana Sowmiyan
For Respondents : Mr.P.Harish, GA(CS)

WEB COPY

JUDGMENT

The appeal has been filed against the order of the first respondent by proceedings dated 08.09.2015 in No.34/447/N2/2015 and the order of the second respondent by proceeding dated 18.10.2005 in Mu.No.5836/m/01.

2. It is the case of appellant that the agricultural lands comprised in S.F.No.130/4A and 130/5A to an extent of 1.66 acres situated at Sirumugai Village, Mettupalayam Taluk, Coimbatore District was purchased by the petitioners through a registered sale deed dated 29.01.2001 bearing document No.2171/2001 on the file of the Sub Registrar, Mettupalayam. The sale consideration in the sale deed was Rs.1,33,000/- and the total value mentioned in the document was as per the market value. The petitioners have paid the stamp duty and reregistration charges.

3. In such circumstances, after lapse of one year and nine moths, the appellants received a notice dated 07.10.2002 from the 4th respondent informing that the appellants can avail the benefits of the samadhan scheme by paying 60% of the difference in stamp duty i.e. Rs.7,68,659/- including registration charges. Immediately, the appellants met the 4th respondent in person and requested to accept the value mentioned in the document, since the land is

WEB COPY

agricultural land. On 18.10.2005, the second respondent, vide order dated 18.10.2005, determined the market value of the property and demanded difference in stamp duty of Rs.11,82,548/- On 01.02.2012, again the appellant received a notice from the second respondent demanding to pay the aforesaid amount. Challenging the order dated 18.10.2005 passed by the second respondent, the appellants have filed appeal before the first respondent. Without considering the appeal on merits, the first respondent dismissed the same. Challenging the same, the present appeal has been filed.

4. The learned Counsel for the appellants submitted that as per the Rule 4 of the Stamp Act, the second respondent has to provide necessary opportunity to the appellants. But the second respondent, without provisions any opportunity, mechanically passed non-speaking order by demanding a sum of Rs.11,82,548/- and the same was not served on the appellants. Again, the respondent has served recovery notice to the appellant which is not sustainable one. The entire fact was not properly adjudicated by the appellate authority in terms of Section 47(A) of the Indian Stamp Act. Hence, the learned counsel prays that this Court may quash the impugned orders and allowing the appeal.

5. The learned counsel for the respondent has not produced the proof

WEB COPY

with regard to the acknowledgment and fairly conceded that except the recovery proceedings, the respondents have not sent the impugned orders to the appellants.

6. Heard the learned counsel on either side and perused the materials available on record.

7. The appeal has been filed challenging the the order passed by the first respondent under Section 47(A) of the Indian Stamps Act for demanding a sum of Rs.11,98,548/- as stamp duty and registration charges. In order to ascertain whether the entire proceeding conducted by the second respondent is correct, this Court called for the entire original records before this Court. On perusal of the same, it is seen that that there is no proof available with regard to serving of impugned orders. Therefore, this Court arrived at a conclusion that there is clear violation of principal of natural justice. However, the said fact was not properly adjudicated by the second respondent as well as the first respondent. Hence, this Court is inclined to set aside the impugned order and the same is set aside.

8. Accordingly, the Civil Miscellaneous Appeal is allowed and the matter

WEB COPY

is remanded back to the second respondent for fresh consideration. The second respondent shall decide the issue after providing opportunity to the appellants as well as the respondents, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order in terms of Sections 47(A)(1) and 47(A)(2) of the Indian Stamps Act. No costs. Consequently, connected miscellaneous petition is also closed.

21.12.2023

Rli

Index: Yes/No
NCS : Yes/No
To
1. The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road, Chennai.

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

3. The Special Tahsildar (Stamps)
Coimbatore.

4. The Sub Registrar,
Mettupalayam, Coimbatore.

https://www.mhc.tn.gov.in/judis

WEB COPY

M.DHANDAPANI,J.

Rli

C.M.A.No.130 of 2021

21.12.2023