IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1534 of 2019

1.Prabavathi Muthurama Reddy (Died)
2.B.Jayaraman also known as B.Jayapal
3.R.Bhavishyavani

(Appellant-2 & 3 - Legal heirs of the deceased A-1 Prabavathi Muthurama Reddy vide Court order dated 28.09.2021 made in CMP.No.14809/2021 in CMA.No.1534 of 2019

... Appellants

Vs

1.The Chief Controlling Revenue Authority
o/o The Inspector General of Registration,
No.100, Santhome High Road,
Madras-600 028.

2.The District Revenue Officer (Stamps)
O/o The District Revenue Officer,
Chennai Collectorate, Singaravelar Maligai
5th Floor, 32, Rajaji Road, Chennai-600 001.

3. The Sub-Registrar,
S.R.O.Kundrathur ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47A(10) of the Indian Stamp Act 1899 r/1 Rule 9(5)(A) of Tamil Nadu Stamps (Prevention of under Valuation Rules) 1968, to set aside the impugned order of the First Respondent bearing No.57799/N1/2016 dated 23.08.2018.

For Appellant ...Mr.K.Bijai Sundar
For Respondents ... Mr.Dr.S.Suriya, AGP (CS)

JUDGMENT

Challenging the impugned order dated 23.08.2018 passed by the First Respondent/Chief Controlling Revenue Authority, the appellant has filed the present appeal.

2. It is the case of the appellant that he had purchased the land comprised in Survey Nos.209/2 to an extent of about 49 cents and Survey No.210/3A to an extent of about 25 cents totally to an extent of 0.74 acres situated at Kannapalayam Village, Poonamallee Taluk, Thiruvallur District vide the sale deed dated 15.09.2014 vide document No.1495/2014. Despite the Appellants having truly and fully disclosed the market value consideration and all other factors affecting chargeability of duty as envisaged under Section

27 of the Indian Stamp Act, 1899, the third respondent had referred the aforesaid deed u/s 47 A(1) of the Indian Stamp Act, 1899 for determination of market value before the 2nd Respondent/District Revenue Officer, who without conducting an enquiry as contemplated under Section 47A of the Indian Stamp Act, had mechanically fixed the value of the property at Rs.1,84,800/- per cent vide order dated 17.10.2016 against which the appellent preferred an appeal before the Appellant Authority/1st respondent under Section 47 A(5) of the Act which was dismissed vide the impugned order dated 23.08.2018 confirming the order of the 2nd respondent. Assailing the concurrent findings of the 1st and 2nd Respondent, the present appeal has been filed.

3. Learned counsel appearing for the appellant would submit that admittedly, the land which was purchased by the appellant is an agricultural land. Despite the appellant having produced all the relevant documents pertaining to the said land, the 3rd Respondent had erroneously come to a conclusion that the guideline value itself is Rs.2,20,000/- and had referred the sale deed under Section 47 A(1) of the Act before the 2nd respondent, wherein, the value of the land was fixed at Rs.1,84,800/- per cent which is not

sustainable. In fact the 3rd respondent ought to have exercised his powers under Section 47A of the Act. He further submitted that the similar issue came up for consideration before the Hon'ble Apex Court in case of ***"V.N.Devadoss versus C.C.R.A and others*** reported in ***2009-L.W-2396*** wherein, the Apex Court has held as under:-

> " *It is not a routine procedure to be followed in respect of each and every document of conveyance presented for registration without any evidence to show lack of bonafides of the parties to the document by attempting fraudulently to undervalue the subject of conveyance with a view to evade payment of proper stamp duty and thereby cause loss to the revenue. Therefore the basis for exercise of power u/s 47A of the Act is willful undervaluation of the subject of transfer with fraudulent intention to evade payment of proper stamp duty."*

A perusal of the aforesaid decision reveals that there must be proper evidence to show that the appellant had intentionally setforth the market value for the purpose of evading the stamp duty, however in the present case neither the 1st respondent nor the 2nd Respondent exercised the powers available under Section 47A of the Act but have mechanically arrived at a conclusion and fixed the market value at Rs.1,84,800/- which is not sustainable. Accordingly, he prayed for allowing the Appeal.

4. Learned Additional Government Pleader appearing for the respondents submitted that the guideline value of the subject property had already been fixed at Rs.2,20,000/- per cent, however, in order to evade the stamp duty, the appellant had fixed the market value at Rs.1,15,000/- per cent which is less than the guideline value. Hence, the sale deed of the property was referred to under Section 47 A(1) before the 2nd respondent, who after hearing the appellant and conducting the enquiry, had fixed the market value at Rs.1,84,000/- per cent which being less than the guideline value fixed by the valuation committee, the appellant cannot challenge the same unless he challenges the guide line value fixed by the valuation committee. Hence, the concurrent findings of the respondents 1 & 2 does not warrant any intereference. Accordingly, he prayed for dismissal of the appeal.

5. This Court heard the learned counsel appearing for the Appellant and

the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

6. The appellant had challenged the impugned order of the 1st respondent on the ground that the market value of the property fixed by the 2nd respondent at Rs.1,84,800/- is erroneous which requires interference. However, on perusal of the decision relied upon by the learned counsel for the appellant, it is seen that there is no discussion with regard to the guideline value of the property having been fixed therein and the findings rendered by the Apex Court is only with regard to the market value of the property. In the present case on hand, already the valuation committee had fixed the guideline value at Rs.2,20,000/- per cent. Referencing the said guideline value, the market value had been fixed at Rs.1,84,800/- which is less than the guideline value fixed by the valuation committee. The market value fixed by the respondent being less than the guideline value and the appellant having not challenged the valuation committee report with regard to fixation of the guideline value at the relevant point of time, the findings rendered by the 1st respondent confirming the order of the 2nd respondent cannot be said be perverse and the appeal deserves to be

dismissed.

7. Accordingly, for the reason aforesaid, the Civil Miscellaneous Appeal stands dismissed and the impugned order dated 23.08.2018 passed by the 1st Respondent stands confirmed. There shall be no order as to costs in this Appeal.

02.11.2023

Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No
NHS
To
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M.DHANDAPANI, J

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