IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.06.2023

PRONOUNCED ON : 03.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.3064 of 2018
CMP.Nos.23211 and 23208 of 2018

K.Amsaveni ... Appellant

Vs

1. The Tamil Nadu Chief Controlling Revenue Authority cum The Inspector General of Registration, Santhome High Road, Foreshore Estate, Chennai - 600 028.

2. The District Revenue Officer, (Stamps) Rajaji Salai, Chennai-1.

3. The Sub-Registrar-II, Kanchipuram ... Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the order dated, 28.07.2016, made in Na.Ka.Doc.No1958 of 2015 and 1961 by the 2nd Respondent and the consequential order of the 1st Respondent, dated 18.09.2018, made in Na.Ka.No.38172/N1/2016.

For Appellant : Mr.G.Jeremiah

For Respondents : No Appearance

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, against the order dated, 28.07.2016, made in Na.Ka.Doc.No1958 of 2015 and 1961, by the 2nd Respondent and the consequential order of the 1st Respondent, dated 18.09.2018, made in Na.Ka.No.38172/N1/2016.

2. The facts of the case of the Appellant, in a nutshell, leading to filing of this

appeal, are as follows:-

(a) On 26.03.2015, the Appellant has presented four sale deeds, in respect of 5.83 acres of agricultural lands, situated at Vel Menadur, Kanchipuram Taluk for registration before the 3rd Respondent. Though the 3rd Respondent has accepted the values mentioned in two sale deeds and registered the same in Doc.Nos.1959 and 1960 of 2015, he did not accept the values stated in other two sale deeds, namely, (1) Doc.No.1958 of2015, under which the Appellant purchased 68 cents in S.No.185/1A1A, 185/1A2A and (2) Doc.No.1961 of 2015, under which he purchased 68 cents in S.No.184/3, 183/1B2 & 182/1B. The 3rd Respondent had proceeded to determine the market value in respect of the lands covered under the Doc.No.1958/-@ Rs.200 sq.ft and lands covered in Doc. No.1961 @ Rs.90/- sq.ft. while making a reference under Section 47A of the Indian Stamp Act to the 2nd Respondent, without any basis and without any jurisdiction.

(b) Without affording an opportunity, the 2nd Respondent, by order dated, 28.07.2016, has determined the market value of the lands in S.No.185/1A1A, 185/1A2A and 182/1B at Rs.160/- sq.ft and the lands in S.No.184/3, 183/1B2 at Rs.70/- per sq.ft. without any basis. As against the same, the Appellant has filed an appeal before the 1st Respondent, who also without application of mind, has determined the market value of the lands in S.No.185/1A1A, 185/1A2 & 182/1B at Rs.34,84,800/- and Rs. 15,24,600/- in respect of the lands comprised in S.No.183/1B, 183/1B2. Thereafter, challenging the orders of the Respondents 1 and 2, the Appellant has filed WP.No.29690 of 2018, which was withdrawn, with a liberty to file an appeal. Contending that since the lands are being used for agricultural purposes, they are surrounded by the agricultural lands, there are no house sites in and around the lands and the lands are under cultivation, the impugned orders passed by the Respondents 1 and 2, without following the provisions of the Tamil Nadu (Prevention of Under Valuation of Instrument) Rules 1968 are not sustainable, this appeal has been filed.

3. This Court heard the submissions of the learned counsel for the Appellant and perused materials placed on record. There is no representation for the Respondents.

4. According to the learned counsel for the Appellant, though it was found by the Respondents that the lands in question were used for agricultural purposes and there is no road access to reach the lands and when the lands mentioned in all the four sale deeds are adjacent to each other, the 1st Respondent, erroneously construing the lands in question as house sites, has erroneously determined the market value of the lands in question on par with the house sites, without assigning any valid reason and wrongly adopted different rates and hence, the impugned orders, passed without following the provisions of the Tamil Nadu (Prevention of Under Valuation of Instrument) Rules 1968, are not sustainable.

5. The Appellant had presented four sale deeds, dated 26.03.2015, in respect

of purchase of 5.30 acres of agricultural lands at Melpadavur Village, Kanchipuram Taluk, for registration before the 3rd Respondent. Though the 3rd Respondent, accepting the values mentioned in the two sale deeds, had registered the same as Doc.Nos.1959 and 1960 of 2015, he did not accept the other two sale deeds, namely, Doc.No.1958 of 2015 in respect of 68 cents comprised in S.Nos.185/1A1 and 1A2 and Doc.No.1961 of 2015 in respect of 68 cents comprised in S.Nos.184/3, 183/1B2 and 182/1B and made a reference under Section 47A of the Indian Stamp Act to the 2nd Respondent.

6. After enquiry and inspection, the 2nd Respondent has passed the impugned order, dated 28.07.2016 in Na.Ka.Doc.No.1958 of 2015 and 1961 of 2015, observing that during the local inspection, it was found that there was no approach road to reach the lands in question and there was no direct access to the lands and the lands could be accessed only along the field ridges and the land was located 7 kms away from the national Highway and that there were no houses constructed and house sites in the vicinity. It was further observed that division of the lands in question into house sites is not possible and there is no accessible pathway to the lands in question and hence, for arriving at the stamp duty payable, the lands in question cannot be assessed on par with the house sites. However, contrary to the above said observations, by the said impugned order, the 2nd Respondent has determined the market value of the lands to an extent of 11 cents in S.No.184/3, 47 cents in S.No.183/1B2 at Rs.70/- per sq. feet and for the

lands to an extent of 10 cents in S.No.182/1B1, 34 cents in S.No.185/1A1A and 34 cents in S.No.185/1A2 extent 34 cents at Rs.160/- per sq.ft. on par with the house sites. It is not known as to on what basis, such a determination of the market value on par with house sites has been made for the lands in question, which are adjacent to the lands covered under the accepted sale deeds.

7. As against the said order of the 2nd Respondent, the Appellant has filed an appeal before the 1st Respondent. The 1st Respondent has sought for adangal extracts in respect of the lands in question for determination of the value of the lands in question.

8. Even in the adangal extracts for the fasli years 1425 and 1427 in respect of the lands in question sent by the 2nd Respondent, by letter dated, 18.06.2018, to the 1st Respondent, it is mentioned in column (9) as if paddy were being cultivated and thereby meaning that the lands in question are agricultural lands and they are being used for agricultural purposes.

9. Though the 1st Respondent, by the impugned order, dated 18.09.2018, made in Na.Ka.No.38172/N1/2016, has held that the lands in question are agricultural lands and they have been used for agricultural purposes, but erroneously determined the value of the lands comprised in S.No.185/1A1A, S.No.185/1A2 and S.No.182/1B at Rs.34,84,800/- per acre and for the lands comprised in S.No.183/3 and S.No.183/1B at Rs.15,24,600 per acre on the basis of future potentialities of the lands. Here also, without assigning any reasons and without mentioning any reliable evidence and without

considering the adangal extracts, the 1st Respondent has erred in fixing the different market values for the lands in question, while the lands in all the four sale deeds are adjacent to each other.

10.When both the Respondents 1 and 2, having categorically found that the lands in question were being used for agricultural purposes and there is no road access to them and the division of the lands into house sites is not possible, they have determined the above said market values, without giving any reason and contrary to their findings. No reason has been given by the any of the authorities as to why different rates have been adopted, when all the lands mentioned in all the four sale deeds are situated adjacent to each other in the same locality in the same village. For the above said reasons, especially for non- consideration of the provisions of the Tami Nadu Stamps(Prevention of Under Valuation of Instruments) Rules 1968, the impugned orders cannot be sustained.

11.In fine, this Civil Miscellaneous Appeal is allowed. The impugned orders of the Respondents 1 and 2 are set aside. The Respondents are directed to adopt the values arrived at for the lands in Doc.Nos.1959 and 1960 of 2015 to the lands in Doc.Nos.1958 and 1961 of 2015. No costs. Consequently, the connected MPs are closed.

03.08.2023

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The Tamil Nadu Chief Controlling Revenue Authority cum The Inspector General of Registration, Santhome High Road, Foreshore Estate, Chennai - 600 028.
2. The District Revenue Officer, (Stamps), Rajaji Salai, Chennai-1
3. The Sub-Registrar-II, Kanchipuram
4. The Record Keeper, VR Section, High Court, Madras

A.A.NAKKIRAN, J.

Srcm

Pre-Delivery Judgement in
CMA.No.3064 of 2018

03.08.2023