BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.06.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1051 of 2010
and
M.P(MD)Nos.1 & 2 of 2010

R.Ayyavoo Naicker (Died) ... Appellant

2.Chithra

3.Kanaga

4.Sulochana

5.Vennila

6.Vijayakumar ... Proposed Appellants

(Appellants 2 to 6 are brought on record as legal heirs of the deceased 1st appellant vide Court order, dated 12.08.2016 made in C.M.P(MD)No.6974 of 2016)

Vs.

1.The Inspector General of Registration cum
Chief Controlling Revenue Authority,
Santhome,
Chennai-600 028.

2.The Special Deputy Collector (Stamps),
Tiruchirapalli.

3.The Sub Registrar,
Registration Department,
Manapparai,
Tiruchirapalli District. ... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 47A (10) of Indian Stamp Act 1899, to call for the records relating to the order, dated 12.05.2010 made in Pa.Mu.No.55871/N4/08 on the file of Inspector General of Registration cum Chief Controlling Revenue Authority, Chennai modifying the order, dated 23.09.2008 made in Ce.P.No.2337/08 on the file of the Special Deputy Collector (Stamps), Tiruchirapalli and set aside the same.

For Appellants : Mr.T.Antony Arulraj

For Respondents : Mr.N.GA.Natraj
Government Advocate

JUDGMENT

The present appeal has been filed by the purchaser of a property challenging the proceedings initiated under Section 47-A of the Indian Stamp Act.

2. The appellant herein had purchased 2.81 acres out of 7.53 acres in Survey No.230/2 in Kannudayanpatti Village, Manaparai Taluk,

Manapparai Sub Registration District, Tiruchirapalli Registration District on 28.05.2008. As per the said document, he had valued the property at Rs.2,50,000/- per acre. However, the guideline value at the relevant point of time was Rs.5,00,000/- per acre. The Sub Registrar not been satisfied with the valuation of the property, had referred the same under Section 47-A to Special Deputy Collector (Stamps), Tiruchirapalli. After conducting an enquiry, he arrived at a finding that the value of the property is Rs.10,00,000/- per acre.

3. Aggrieved over the order of the original authority, the appellant herein had filed an appeal before the 1st respondent herein. The 1st respondent had relied upon two documents to arrive at a finding that the value of the property would be Rs.40/- per square feet. The said order is under challenge in the present appeal.

4. According to the learned counsel appearing for the appellants, Document No.4000/07 was registered at the rate of Rs.10,00,000/- per acre only for the purpose of getting a bank loan. Another document in Document No.1311/2008 is for a very small extent of 2 cents which was purchased for putting up construction. Therefore, the value was

mentioned at Rs.70/- per square feet. In view of the above said facts, these two documents ought not to have been relied upon by the appellate authority to arrive at finding. He further contended that the appellate authority has fixed the value at Rs.40/- per square feet only on the ground that there is a possibility of converting the same into a house site in future.

5. The learned counsel appearing for the appellants had also relied upon a judgment of Division Bench of our High Court reported in ***2015 SCC Online Madras 13855 (Special Deputy Collector (Stamps) Vs. Thajunnisa & Others)*** to contend that the authorities have to decide the value of the land on the date of registration of the document and cannot presume and assume the value of the land that would increase in future.

6. The learned counsel for the appellants further relied upon document in Document No.4711/2008. Under the said document, the same appellant had purchased an additional extent in the same survey number on 10.12.2008 valuing at Rs.2,50,000/- per acre. The said document was also subjected to proceedings under Section 47-A and ultimately, the authorities fixed the market value at Rs.5,00,000/- per

acre. The purchaser has accepted the said valuation, paid the stamp duty and the document has been released on 23.04.2010. Therefore, according to the learned counsel appearing for the appellants, when the value of the land has been accepted to be Rs.5,00,000/- per acre by the authorities, even after the proceedings under Section 47-A for the same sub division, it should be followed in the present case also.

7. Per contra, the learned Government Advocate had contended that the authorities under the Stamp Act have relied upon two documents, namely Document Nos. 4006/2007 and 1311/2008 to arrive at a finding that these lands having potential to be converted into a house site in future and has rightly fixed the value of the property at Rs.40/- per square feet. Hence, he prayed for sustaining the order passed by the 1st respondent in the appeal.

8. I have carefully considered the submissions made on either side and perused the records.

9. It is not in dispute that when the appellant purchased the property on 28.05.2008, the guideline value for Survey No.230/2 was at

Rs.5,00,000/- per acre. However, as per the document, the purchaser had valued the said property at Rs.2,50,000/- per acre. This has resulted in referring the document under Section 47-A of the Stamp Act for adjudication of stamp duty.

10. The original as well as the appellate authority have relied upon certain documents to arrive at a finding that the value of the property would be Rs.40/- per square feet. However, it is brought to the notice of the Court that the same appellant had purchased an additional extent of land in the same sub division 7 months after the disputed document. This said document in Document No.4711/2008 was also subjected to proceedings under Section 47-A. Ultimately, the authorities have decided that the market value of the property would be Rs.5,00,000/- per acre. Therefore, this Court finds that the value of the property is Rs.5,00,000/- per acre and the authorities have erroneously relied upon the two documents in Document No.4006/2007 and 1311/2008. In those two documents, one is a higher valued document and the other one is meant for a house site having an extent of 2 cents. Therefore, the authorities have relied upon two documents which are not in anyway comparable with the disputed sale deed.

11. In view of the above said deliberations, the order of the original authority as well as the appellate authority are hereby set aside and the appeal stands allowed. The market value to the land in dispute that was purchased by the appellant under the sale deed, dated 28.05.2008 is hereby fixed at Rs.5,00,000/- per acre. The respondents are directed to fix the stamp duty for the said valuation.

12. The Civil Miscellaneous Appeal is allowed to the extent as stated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

20.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1.The Inspector General of Registration cum
Chief Controlling Revenue Authority,
Santhome,
Chennai-600 028.

2.The Special Deputy Collector (Stamps),
Tiruchirapalli.

3.The Sub Registrar,
Registration Department,
Manapparai,
Tiruchirapalli District.

4.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

R.VIJAYAKUMAR,J.

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Judgment made in
C.M.A(MD)No.1051 of 2010

20.06.2023