BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1367 of 2010
and
M.P(MD) No.1 of 2010

Christabha Jebakani ... Appellant/ Respondent

-vs-

The Chief Controlling Revenue Authority-cum-
Inspector General of Registration,
Chennai. ... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A(10) of Indian Stamp Act, 1899, against the order bearing Pa.Mu.No.54543/U1/2005, dated 22.07.2010, passed by the respondent herein.

For Appellant : Mr.M.Gnanagurunathan
For Respondent : Mr.N.GA.Natraj
Government Advocate

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the purchaser of a property challenging the order passed by the respondent herein on 22.07.2010, wherein, he has exercised *suo motu* powers and enhanced the value of the property as Rs.286/- per square feet.

2. The present appellant had purchased 2400 square feet of house site in plot No.13 in S.No.6/1A for a sale consideration of Rs.4,10,000/- (Rupees Four Lakhs Ten Thousand only) on 12.04.2004, under a registered document in document No.957 of 2004. As per the said document, he had valued the said property at Rs.175/- per square feet. He has paid stamp duty at Rs.143/- per square feet.

3. The Sub Registrar was not satisfied with the market value as calculated by the purchaser and had referred the said document to Special Deputy Collector, Madurai under Section 47-A of the Indian Stamp Act. The Special Deputy Collector, after conducting enquiry, arrived at a finding that the value of the property is Rs.4,20,000/- and fixed the Stamp duty at Rs. 33,600/- and demanded a deficit Stamp duty of Rs.600/-. The said amount was accepted and paid by the purchaser.

4. The respondent herein had initiated *suo motu* proceedings by dispatching a notice on 09.06.2009 for which the purchaser has sent a reply on 25.06.2009 and further reply on 06.03.2010. The respondent herein based upon the report of the Special Deputy Collector, Madurai and the District

Registrar had proceeded to fix the value of the property at Rs.286/- per square feet. This order is under challenge in the present appeal.

5. According to the learned counsel appearing for the appellant, at the time of purchasing the property, they have paid stamp duty as per guideline value that was prevailing on the date of the sale deed. However, it was not accepted and a reference was made to the Special Deputy Collector (Stamps Madurai) under Section 47-A of the Stamp Act. The original authority has passed an order on 09.06.2004 demanding a sum of Rs.600/- as stamp duty. The said order was also complied with. However, the present *suo motu* proceedings have been initiated after period of five years by the respondent herein, which is not admissible in law. The learned counsel appearing for the appellant has relied upon Section 47-A (7) (b) of the Indian Stamp Act to contend that the respondent shall not have any power to initiate any proceedings after five years from the date of passing of order of the original authority.

6. Per contra, the learned Government Advocate appearing for the respondent had contended that the appellate authority had initiated proceedings within a period of five years and only based upon the report of

the District Registrar and the Special Deputy Collector, the value of the property has been ascertained and it has been fixed at Rs.286/- per square feet. Hence, he prayed for dismissal of the appeal.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

8. The primary contention of the learned counsel appearing for the appellant is that the Special Deputy Collector (Stamps Madurai) has passed an order on 09.06.2004 fixing the value of the land at Rs.175/- per square feet. If at all the respondent had wanted to initiate any *suo motu* proceedings, that can be done on or before 08.06.2009. However, the postal receipt indicates that the show cause notice was posted on 09.06.2009. Therefore, it is clear that the *suo motu* proceedings have been initiated after period of five years. It is clearly in violation of Section 47-A (7) (b) of the Indian Stamp Act, 1899. Therefore, the respondent lacks jurisdiction to initiate *suo motu* proceedings. The order impugned in the appeal is set aside.

9. Accordingly, this Civil Miscellaneous Appeal stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

22.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Chief Controlling Revenue Authority-cum-
Inspector General of Registration,
Chennai.

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

R.VIJAYAKUMAR,J.

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