BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.06.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.466 of 2010
and
M.P(MD)No.1 of 2010

T.P.Gandhimani ... Appellant/Appellant

Vs.

1.The Special Deputy Collector (Stamps),
Virudhunagar,
Virudhunagar District.

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

3.The Sub-Registrar,
Sub-Registrar Office,
Tiruchuli Road,
Aruppukkottai,
Virudhunagar District. ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Order Section 47-A (10) Indian Stamp Act, to call for the records relating to the order No. 52284/N4/07 dated 26.02.2010 (signed on 03.03.2010) and despatched on 12.03.2010) by the 2nd respondent confirming the order of the 1st respondent passed in Na.Ka.Tha.Pa.No.250/07, dated 24.08.2009 and to set aside the same.

For Appellants : Mr.Babu Rajendran

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

JUDGMENT

The present appeal has been filed challenging the order passed by the 2nd respondent herein fixing the value of the property at Rs.15,00,000/- per acre.

2. The appellant herein had purchased an extent of 4 acres out of 4.18 acres in Survey No.27/3 in Periyauliampatti Village on 09.02.2007. The total consideration as per the said sale deed is Rs.4,00,000/-. The appellant had paid stamp duty of Rs.36,800/-. On the basis of complaint lodged by some third parties, the Sub Registrar had referred the matter under Section 47-A to the 1st respondent herein. The 1st respondent after conducting an enquiry, arrived at a finding that the value of the property per acre would be Rs.13,00,000/- and directed the purchaser to pay stamp duty as per the said value. Aggrieved over the same, the appellant had filed an appeal before the 2nd respondent herein. The 2nd respondent by his order, dated 26.02.2010 had not only confirmed the said valuation fixed by the original authority, but has proceeded to enhance the value of Rs.13,00,000/- to Rs.15,00,000/-. The said order is under challenge in the present appeal.

3. According to the learned counsel appearing for the appellant/purchaser, the property was purchased by him on 09.02.2007 as an agricultural property. Admittedly, even as per the report of the District Registrar, Coconut, Sapota and Tamarind trees are there in the 4 acres of land. Therefore, the authorities were not right in calculating the stamp duty at square feet rate. He further contended that unless the authorities have got any doubt with regard to the valuation of the property, the same cannot be referred under Section 47-A of the Act. But in the present case, they have initiated proceedings at the instance of the land broker and his vendor. Therefore, the authorities have no jurisdiction whatsoever to initiate such proceedings. He further contended that on the same day, his vendor has executed a document in Doc.No.2232 of 2007 for the balance extent of 18 cents in favour of his wife. Even in the said document, it has been valued at Rs.1,000/- per cent. In the same rate, the appellant has also purchased the property under the present documents. Therefore, the authorities were not right in enhancing the value of the property. He further contended that the appellate authority has no jurisdiction whatsoever to enhance the market value of the property in the appeal filed by the purchaser. Hence, he prayed for allowing the appeal.

4. Per contra, the learned Government Advocate appearing for the respondents pointed out that out of 4.18 acres, 4 acres were purchased by the present appellant on 09.02.2007. On the same day, the vendor has executed a registered settlement deed in favour of his wife for the balance 18 cents under Document No.2232/2007. Though initially the property was valued at Rs.1,000/- per cent, the said document was also referred under Section 47-A and finally, the authorities have fixed the value at more than Rs.18,000/- per cent. Therefore, when the same value is referred to the present sale deed, the value of the property would be Rs.18,00,000/- per acre. However, the authorities have chosen to fix the market value only at the rate of Rs.15,00,000/- per acre. Hence, he prayed for sustaining the order passed by the first appellant authority.

5. I have carefully considered the submissions made on either side.

6. There is no dispute that the appellant herein had purchased the property on 09.02.2007 at the rate of Rs.1,00,000/- per acre. On the same day, the same vendor has executed a registered settlement deed in favour of his wife under Document No.2232 of 2007 wherein he has also sold the balance 18 cents valuing at Rs.1,000/- per cent. However, according to the learned Government Advocate for the respondents, the said

document was also referred under Section 47-A and deficit stamp duty was collected.

7. The original authority after considering the submission, has arrived at a finding that the value of the land is Rs.13,00,000/- per acre. After arriving at the said value, he has also found that a deficit stamp duty of Rs.3,85,800/- has to be paid by the purchaser. When this order is challenged before the appellate authority, the first appellate authority has got powers either to reduce the market value or to confirm the same. However, in the appeal filed by the purchaser, the appellate authority has chosen to enhance the market value. The appellate authority has no jurisdiction whatsoever to enhance the market value in an appeal filed by the purchaser, especially when no *suo moto* proceedings have been initiated by the appellate authority. Therefore, this Court is of the view that the order of the appellate authority is liable to be set aside on the ground that he has no jurisdiction to pass such an order.

8. In view of the above said deliberations, the impugned order of the 2nd respondent is hereby set aside and the order of the 1st respondent, dated 08.08.2007 is hereby restored. The appeal stands allowed to the extent as stated above. The Sub Registrar shall collect the amount as per the order of the Special Deputy Collector, dated 08.08.2007.

9. The Civil Miscellaneous Appeal stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

15.06.2023

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

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To

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R.VIJAYAKUMAR,J.

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Judgment made in
C.M.A(MD)No.466 of 2010

15.06.2023