BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.06.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.443 of 2019

M.Raja Mohammed ... Appellant/Appellant

Vs.

The Tamil Nadu Principal Revenue Officer
cum Inspector General of Registration,
Chennai. ... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 47 of the Stamp Act, to set aside the order passed by the respondent in Na.Ka.No. 55520/N4/N3/2015, dated 14.03.2017 thereby directing the appellant to pay the deficit stamp duty at the rate of Rs.505/- per sq.ft for S.F.No. 192/2Bpart Aw Block-1, T.S.No.76/2 (Classic Avenue) of Kottapattu Village, Trichy District.

For Appellant : Mr.P.Ganapathi Subramanian

For Respondent : Mr.N.GA.Natraj

JUDGMENT

The present appeal arises under the Stamp Act challenging the order passed by the Inspector General of Registration, Chennai, dated 14.03.2017.

2. According to the appellant, he had purchased 1 acre out of 7.32 acres in Survey No.192/2B in Kottapattu Village, Srirangam Taluk, Trichirappalli District on 26.06.2015. According to the appellant, the total consideration for the said sale deed is Rs.60,00,000/- and he had paid stamp duty of Rs.4,20,000/- calculating at Rs.138/- per square feet.

3. The Sub-Registrar having not been satisfied with the quantum of stamp duty paid by the purchaser, referred the document under Section 47-A of the Stamp Act to the Special Deputy Collector (Stamp duty) Tiruchirappalli. After hearing both the parties, he passed an order, fixing the value of the property at Rs.2,27,27,500/- and calculated the stamp duty to be paid at Rs.15,90,925/-. This stamp duty was calculated by the original authority treating the value of the property as Rs.520/- per square feet. This order was challenged by the purchaser/appellant before the respondent herein.

4. The respondent after considering the inspection report submitted by the district level authorities and also considering the fact that the nearby lands have been converted into a lay out, arrived at a finding that it would be appropriate to fix the value of the land at Rs.505/- per square feet. This order is under challenge in the present appeal.

5. According to the learned counsel appearing for the appellant, when he has purchased the property on 26.06.2015, it was a fallow land and there was no proposal whatsoever to convert it into a layout. Therefore, the authorities under the Stamp Act were not right in presuming that it is likely to be converted into a lay out in future. The authorities are under a statutory obligation to fix the value of the land depending upon the use of the land on the date of purchase and not on a presumption that it is likely to be converted into a house site on a future date. Therefore, according to the learned counsel appearing for the appellant, the value of the land is just Rs.60,00,000/-, for which the purchaser has already paid a sum of Rs.4,20,000/- towards stamp duty. The Sub-Registrar ought not to have referred the matter under Section 47-A to the authorities under the said Act. He further contended that the original authority as well as the appellate authority have not properly

appreciated the fact that the present land has not been converted into a lay out. Just because the adjacent lands have been converted into the lay out and they are valued at the rate of Rs.800/- per square feet, the present order has been passed. The value of the adjacent lands can never be taken into consideration when the property in dispute is not a layout. Hence, he prayed for allowing the appeal and for releasing the document.

6. Per contra, the learned Government Advocate appearing for the respondent has contended that the Survey No.192/2 is having a total extent of more than 7 acres. Out of the said 7 acres, 1 acre has been purchased by the appellant. The balance extent has been converted into a layout under the name and style of Classic Avenue, for which Rs.800/- has been fixed per square feet and it has been accepted by the purchasers and the stamp duty has also been paid. The lands are located adjacent to Trichirappalli-Pudukkottai National Highways and it is 500 meters away from the Trichirappalli Airport. He further contended that even though the land in question would attract a sum of Rs.800/- per square feet, considering the fact as on today, there is no layout, the authorities have fixed it at Rs.505/- per square feet. Therefore, the appellant cannot have any grievance with regard to the fixation of the value of the land or the

stamp duty for the same. Hence, he prayed for sustaining the order passed by the authorities.

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

8. Admittedly, the appellant herein has purchased one acre out of 7.32 acres in Survey No.192/2B on 26.06.2015. A perusal of the sale deed indicates that the value of the property mentioned in the document is Rs.60,00,000/-. The original authority as well as the appellate authority after conducting inspection, have arrived at a finding that in the same survey number, layouts have been created in the name and style of Classic Avenue, for which a stamp duty has been levied at the rate of Rs.800/- per square feet. Admittedly, in the property in dispute, no layout has been created and therefore, the authorities have arrived at a finding that there is a possibility of creating a layout in future in the disputed land and have fixed the stamp duty at Rs.505/- per square feet.

9. It is settled position of law that the value of the land has to be assessed only on the basis of the usage on the date of purchase. The

authorities cannot presume that the land has got the potential to be converted into a layout in future. The value of the land and the corresponding stamp duty has to be based only upon the usage of the land on the date of registration of the document and not on the presumption that it is likely to be used for commercial purposes in future.

10. In the present case, it is an admitted fact that the guideline value is Rs.800/- per square feet for the said property on the date of registration. The annexure to the order passed by the original authority also indicates that though the guideline value is Rs.800/- per square feet, the properties have been sold ranging from Rs.200/- per square feet to Rs.800/- per square feet. Therefore, it is clear that the guideline value for the above said survey number on the date of registration of the sale deed is only on the basis of square feet and not on the basis of per cent. In such view of the matter, I am of the opinion that the purchaser has to at least pay the minimum value, for which the lands were sold in the said survey number, namely Rs.250/- per square feet. However, in case, in future, if the lands are converted into a lay out and sold to ultimate purchasers, the authorities would be at liberty to invoke the highest square feet value for the said survey number.

11. The appellant / purchaser has paid the stamp duty at Rs.138/- per square feet. However, in view of the above said deliberation, this Court finds that the value of the property would fetch at least Rs.250/- per square feet. In view of the above said facts, the order impugned in the appeal is hereby set aside and for the disputed property, the stamp duty shall be fixed at Rs.250/- per square feet and the balance stamp duty shall be collected. The purchaser shall pay the balance stamp duty within a period of eight (8) weeks from the date of receipt of copy of this order. The authorities shall not demand any penalty or interest for the said amount, if the enhanced amount is paid within a period of eight (8) weeks from the date of receipt of copy of this order.

12. With the said observations, the Civil Miscellaneous Appeal stands allowed to the extent as stated above. On such payment, the documents shall be released forthwith. No costs.

14.06.2023

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

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To

1.The Tamil Nadu Principal Revenue Officer
cum Inspector General of Registration,
Chennai.

2.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.443 of 2019

14.06.2023