BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.727 of 2022

V.Shanmugavelu ...Appellant/Appellant

Vs.

1.The Tamil Nadu Chief Revenue,
Controller cum Inspector,
General of Registration,
Santhom High Road,
Chennai-28.

2.The Special Collector (Stamps),
Tirunelveli.

3.The Sub-Registrar,
Veerasikamani,
Kadaiyanallur Taluk,
Tenkasi District. ...Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 47 of the Indian Stamp Act, 1899, to set aside the order passed in Na.Ka.No.11673/N4/2016 dated 19.05.2022 on the file of the Tamil Nadu Chief Revenue Controller cum Inspector General Registration, the first respondent.

For Appellant : Mr.P.Murugesan

For R1 to R3 : Mr.D.Sasikumar
Additional Government Pleader

JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the order of the Inspector General of Registration confirming the order of the Special Collector (Stamps), Tirunelveli in fixing the value of the property at Rs.450/- per sq.ft.

2.The brief facts, leading to the filing of this Civil Miscellaneous Appeal, are as follows:-

(i) the appellant had purchased an extent of 26 cents in Survey No.336/1 in Madathupatti at Tirunelveli. When the document was presented for registration before the Sub Registrar, Veerasigamani, an objection was raised with regard to proper stamps and the matter has been referred to the Stamp Collector under Section 47-A(1) of the Indian Stamp Act, 1899 (hereinafter referred to as 'the Act' for the sake of brevity). The Stamp Collector after making an enquiry has fixed the value of the property at the rate of Rs.450/- per sq.mr. Challenging the same, an appeal has been filed by the appellant before the Inspector General of Registration. He has confirmed the the order of the Stamp Collector and dismissed the appeal. Challenging the same, the present appeal came to be filed before this Court.

3.The learned counsel for the appellant would submit that without making an enquiry as contemplated under Section 47(A) of the Act , the orders have been mechanically passed. No opportunity whatsoever had been given before passing such an order to the appellant either by the Original Authority as well as by the Appellate Authority. Further, the suit property is situated in the remote corner of the village and surrounded by agricultural fields. The report of the District Registrar itself indicates that there is no possibility of any development like house sites etc.. As per the entries in the document, the guideline value of the property per acre is reflected as Rs.3,14,000/-. Therefore, without any proper enquiry, the value has been adopted mechanically. Hence, he seeks to set aside the order.

4.The learned counsel for the respondent would submit that though the property is situated in the remote corner of the Village and surrounded by the agricultural fields, the value has been arrived based on the guideline value of the year 2014, under which Rs.8,000/- per cent has been fixed as guideline value. Based on the same the order has been passed by the Stamp Collector.

5.In the light of the above submissions, now the question remains to be answered in the present appeal is whether the value of land arrived by the Original Authority and Appellate Authority is based on proper enquiry conducted under Section 47-A of the Act or merely based on the guideline value without any enquiry?.

6.Admittedly, the property to an extent of 26 cents in Survey No.336/1 was purchased by the appellant and when the instrument was presented for registration, it appears that the said instrument is impounded and referred to the Stamp Collector.

7.It is relevant to note that before the reference, it must be established that the true value of the property has not been stated in the instrument. Only on finding such fact, the instrument can be referred on the ground of undervalue. Once such instrument has been referred under Section 47-A(1) of the Act, after reception of such document on reference, the Stamp Collector or the person authorised on his behalf shall provide proper opportunity to the parties and conduct proper enquiry and pass orders thereon.

8.A perusal of the order of the Original Authority/ Stamp Collector indicates that the Stamp Collector had made en enquiry in the Village and ascertained that one cent of land is fetching about Rs.15,000/-, however he fixed the value of the land in question at Rs.450 per sq.mt. Except referring that he has conducted an enquiry in the village, no materials whatsoever had been produced as to the nature of enquiry and how many witnesses were examined to ascertain the said value. However, the finding of the Stamp Collector itself clearly shows that the suit property was situated inside the village and the distance between the bus stand and the land in dispute is more than 2 kilometers and surrounded by the paddy fields. Further, there is no semblance of any development in and around the area, wherein the property is situated.

9.The Inspector General of Registration also confirmed the order just relying upon the order of the Original Authority. On perusal of the reports it is seen that the District Registrar was directed to conduct an enquiry by the Inspector

General of Registration. The District Registrar had submitted a report to the Inspector General of Registration by letter dated 11.11.2016. His report clearly shows that the subject property is totally agricultural land and it is 10 kilometers away from Sernthamaran and Puliankudi. It is the end of the village and it is just nearer to the pond. There is no possibility of further development in the above land and it is surrounded by the agricultural field.

10.The above said report clearly shows that the subject land is totally surrounded by the agricultural fields and there is no possibility or feasibility of any development as house sites. On an inspection by the District Registrar, it was found that the land in question remained as an agricultural land and there is no possible development. Hence, merely on the basis of the guideline value, it cannot be concluded that the very document itself is undervalued.

11.Having found that no development could be possible in the land in question, the District Registrar also recommended to fix the guideline value per acre at Rs.8 lakhs. This has been suggested on the basis of some transaction done with regard to the agricultural land to an extent of 205 cents. However, those registrations were not considered by the Appellate Authority. When the land in question and the nearby lands are remained as agricultural lands, no sale had taken place in the vicinity. If some of the lands have been sold in Survey Nos.335/5, the same cannot be considered as true market value of the subject property.

12.At any event, the very order of the appellate authority is without any proper enquiry. The report sent by the District Registrar is not also properly considered. Such view of the matter, the order passed by the Appellate Authority is set aside and the matter is remanded back to the first respondent to consider the afresh on the basis of the report filed by the District Registrar and fix the proper value for the property in question within a period of one month from the date of receipt of a copy of this order.

13.Accordingly, this Civil Miscellaneous Appeal is allowed. No costs.

24.03.2023

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

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2.The Special Collector (Stamps),
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3.The Sub-Registrar,
Veerasikamani,
Kadaiyanallur Taluk,
Tenkasi District.

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

N.SATHISH KUMAR, J.

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