BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.10612/2014 &
MP(MD)No.1/2014

Uchimakali ...Petitioner

Vs

1.The Special Deputy Collector (Stamps)
Kokkirakulam, Tirunelveli 9
Tirunelveli District.

2.The Sub Registrar,
Sub Registrar's Office,
Valliyoor, Tirunelveli District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the first respondent in Mu.Sa.X.1/1977/09 dated 30.11.2013 and quash the same and direct the respondents to release the sale deed registered as document no.2374/2009 to the petitioner.

For Petitioner : Mrs.Jeya Revathy

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

This writ petition is filed as against the Form II notice dated 30.11.2013 issued by the first respondent, the Special Deputy Collector (Stamps), Kokkirakulam, Tirunelveli District.

2. The property in S.No.879/3C, Radhapuram SRD, Valliyoor, Thanakarkulam Village, Tirunelveli District originally belonged to one Ramakrishna Reddiyar. Ramakrishna Reddiyar executed a sale deed in Document no.2374/2009 in favour of the petitioner on 30.04.2009. The petitioner has fixed the value of the property and paid stamp duty at Rs. 32,000/-. The Sub Registrar, Valliyoor, Tirunelveli District, the second respondent, felt that the document was undervalued and hence, referred the same to the first respondent under Section 47-A (1) of the Indian Stamp Act, 1899. The first respondent on receipt of the document, has issued Form I notice on 31.07.2009 and thereafter, issued Form II notice on 30.11.2013. The notice issued under Form II is challenged in this writ petition.

3. The learned counsel appearing for the petitioner submits that the first respondent has issued the impugned notice based on the guideline

value projected by the second respondent. However, the adjacent lands of the subject land were sold only with the value as stated by the petitioner. The learned counsel also claims that no sufficient opportunity was provided to the petitioner to establish his case and the first respondent is not having any Authority to fix the market value.

4. The learned Additional Government Pleader submits that the second respondent having doubt with regard to the market value projected by this petitioner, has referred the Document no.2374/2009, dated 22.05.2009 to the first respondent, for ascertaining the market value as required under Section 47-A (1) of the Indian Stamp Act, 1899. The market value of the property must be established with reference to the use, to which the land is reasonably capable of being put immediately or in the near future. It should be emphasized that, if an instrument is found to be undervalued, a procedure has been established under Section 47-A (1) of the Indian Stamp Act, 1899 for determining the correct stamp duty of the instrument. If the market value of the property mentioned in the instrument is less than the minimum value determined in accordance with the Act's rules, the registering Officer has the authority to impound the instrument when it is presented for registration. He submits that on

receipt of a reference from the second respondent under Section 47-A (1) of the Indian Stamp Act, 1899, the first respondent has issued the notice in Form I dated 31.07.2009 to the petitioner, informing him the receipt of the reference and asking him to submit, if any, in writing to show that the market value of the property has been truly set forth in the instrument, and also to produce all evidences that he has in support of his representation, within 21 days from the date of service of the notice and the petitioner has sent a representation which was received by the first respondent on 12.08.2009. After considering the representation of this petitioner, the first respondent issued Form II notice to the petitioner on 30.11.2013 calling for an enquiry on 16.12.2013, as per the Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. This notice dated 30.11.2013 calling upon this petitioner for enquiry on 16.12.2013 is challenged in this writ petition. The market value of the property was provisionally fixed at Rs.67,11,360/- in the Form II notice, based on the enquiry conducted after the notice under Form I. The petitioner has not utilised that opportunity to offer his explanation as to the provisional market value fixed by the first respondent and therefore, the first respondent has passed the final order on 15.04.2015 based on the Form II notice. The petitioner was also directed to pay a sum of Rs.5,04,912/- as differential amount as per the guideline value of the property. He also submits that as against the final order dated 22.05.2009, this petitioner is having an appeal remedy before the Inspector General of Registration, Chennai as per Section 47-A (5) of the Indian Stamp Act, 1899 and this petitioner without approaching the Appellate Authority has filed this writ petition.

5. This Court considered the rival submissions and perused the materials available on record.

6. The document registered by this petitioner on 30.04.2009 was referred under Section 47-A (1) of the Indian Stamp Act, 1899 to the first respondent. The first respondent has issued Form I notice on 31.07.2009 and Form II notice on 30.11.2013. Thereafter, final order has also been passed on 15.04.2015. The petitioner instead of approaching the Appellate Authority, filed this writ petition and the writ petition is also pending from the year 2014. In view of the subsequent developments that the final order has already been passed by the first respondent, this writ petition is disposed of with a liberty to the petitioner to file an appeal as contemplated under Section 47-A (5) of the Indian Stamp Act,

1899 before the Inspector General of Registration, Chennai and the Inspector General of Registration, Chennai shall pass appropriate orders on the appeal, not withstanding the period of limitation, considering the pendency of the writ petition. No costs. Consequently, the connected Miscellaneous Petition is closed.

14.03.2023

NCC: Yes / No
Index :Yes / No
Speaking Order : Yes / No

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To

1.The Special Deputy Collector (Stamps)
Kokkirakulam, Tirunelveli 9
Tirunelveli District.

2.The Sub Registrar,
Sub Registrar's Office,
Valliyoor, Tirunelveli District.

B.PUGALENDHI, J.

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