BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.06.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.306 of 2018
and
C.M.P(MD)Nos.4186 & 4187 of 2018 and 9215 of 2019

S.Balakrishnan ... Appellant/ Appellant

Vs.

1.The Chief Controlling Revenue Authority
cum Inspector General of Registration,
Santhome High Road,
Chennai-28.

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

3.The Sub Registrar,
Watrap. ... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 47 A(10) of Indian Stamp Act, to allow the C.M.A with cost by setting aside the order, dated 13.10.2017 in Na.Ka.No.15921/N4/N3/2015 passed by the 1st respondent by confirming the order of the 2nd respondent in T.P.No. 494/2014, dated 09.02.2015.

For Appellant : Mr.A.Sivaji

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

JUDGMENT

The present appeal has been filed by the purchaser of a property challenging the order passed by the 1st respondent herein, wherein he has fixed the value of one acre of land at Rs.3,00,000/-.

2. The appellant herein had purchased 17.49 acres in Survey Nos. 892/1B, 893/1D, 889/1B, 889/1A, 889/1C, 892/7, 892/3B by way of registered sale deed in Document No.687/2013 on 06.05.2013 in V.Pudupatti village, Watrap Sub Registrar office and Virudhunagar Sub Registration district. At the time of registration of the document, the value of the property was shown as Rs.32,14,000/- and he had paid a stamp duty of Rs.2,25,000/-. After registering the document, the Sub Registrar had referred the document under Section 47-A to the 2nd respondent herein. The 2nd respondent after hearing the appellant herein, had passed an order on 20.12.2004 fixing the market value of the property at Rs.6,92,000/- per hectare and thereafter, proceeded to hold that the purchaser has to pay an additional stamp duty of Rs.1,25,750/-.

As per the said order, the market value of 1 acre was fixed at Rs.2,80,000/-.

3. Challenging the said order, the appellant herein had filed an appeal before the 1st respondent. The 1st respondent has not only confirmed the order passed by the 2nd respondent but has *suo moto* enhanced the value of the land to Rs.3,00,000/- per acre. This order is under challenge in the present appeal.

4. According to the learned counsel appearing for the appellant, during the proceedings under Section 47-A, he has raised various grounds citing the relevant rules. However, those grounds were not considered by the original authority, namely the Special Deputy Collector (Stamps) and he has proceeded to pass an order fixing the market value of the land at Rs.2,80,000/- per acre. When he filed an appeal before the 1st respondent, the 1st respondent has chosen to value it at Rs.3,00,000/- per acre. Therefore, according to the learned counsel appearing for the appellant, in the appeal filed by the purchaser, the 1st respondent has no jurisdiction whatsoever to increase the value of the land. Either he can confirm the order of the original authority or reduce

the market value fixed by the original authority. In case, if he exercises his *suo moto* powers, a notice should have been issued to the purchaser indicating the fact that the 1st respondent in going to invoke his *suo moto* powers. Further, he had contended that when none of the grounds raised by him were considered by the original authority, the first appellate authority at least should have considered those grounds and should have arrived at the value of the land at Rs.1,77,475/- based upon the grounds raised by him. Therefore, he prayed for setting aside the order passed by the 1st respondent and to allow the appeal.

5. Per contra, the learned counsel appearing for the respondents had contended that the guideline value on the date of registration of the document was at Rs.3,55,000/- per acre. Therefore, the order passed by the 1st respondent herein fixing the value of the land at Rs.3,00,000/- per acre cannot be considered to be excessive or in any way against the statutory provisions. Hence, he prayed for confirming the order passed by the first appellate authority and to direct the appellant to pay the deficit stamp duty.

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

7. A perusal of the appeal grounds filed before the 1st respondent on 07.04.2015 indicates that the appellant/purchaser has raised several legal issues relating to the fixation of the market value of the property. A perusal of the order passed by the 1st respondent does not disclose consideration of any one of these grounds raised by the purchaser. That apart, the first appellate authority has not only confirmed the order passed by the 2nd respondent, but he has also proceeded to enhance the value from Rs.2,80,162/- to Rs.3,00,000/-.

8. This Court is of the view that the order of the original authority has been passed on 20.12.2004. Without issuing any notice, the first appellate authority will not have any jurisdiction to invoke the *suo moto* powers. That apart, the *suo moto* powers can be invoked by the appellate authority only within a period of 5 years from the date of passing of order by the first appellate authority. Now, the said 5 years period has elapsed. Therefore, the first appellate authority will not have any jurisdiction to invoke the *suo moto* powers hereafter. Considering the fact that the appellate authority has not considered any one of the

grounds raised by the appellants in the grounds of appeal, this Court is of the view that the order has been passed clearly in violation of the principles of natural justice. Therefore, the order of the 1st respondent in the appeal is hereby set aside and the matter is remitted back to the file of the 1st respondent herein for considering the matter afresh on merits and in accordance with law. The said exercise shall be completed within a period of four (4) months from the date of receipt of a copy of this order.

9. With the said observations, the Civil Miscellaneous Appeal stands allowed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

26.06.2023

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,
Santhome High Road,
Chennai-28.

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

3.The Sub Registrar,
Watrap.

4.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.306 of 2018

26.06.2023