BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.03.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.874 of 2017
and
C.M.P(MD)No.9356 of 2017

K.Periyannan ... Appellant/Petitioner

Vs.

The Inspector General of Registration
cum Chief Revenue Controlling Authority,
Santhome High Road,
Chennai-600 028. ... Respondent/ Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 47 A (10) of Indian Stamp Act 1899, to call for the records in Moo.Mu.No. 34117/N4/2012 dated 21.06.2012 on the file of Inspector General of Registration cum Chief Revenue Controlling Authority, Chennai, confirming the order, dated 04.06.2012 in Na.Ka.A2/239/1998 passed by Special Sub Collector (Stamp), Trichy and quash the same.

For Appellant : MrS.C.Herold Singh

For Respondent : Mr.N.G.A.Natraj
Government Advocate

JUDGEMENT

The present appeal has been filed by the purchaser of a property challenging an order of the respondent herein, wherein he has dismissed the appeal on the ground of limitation.

2. The appellant had purchased a portion of the property in Survey No.45/2 in Thottiyam Village, Musiri Taluk, Tiruchirappalli District on 14.02.1996. The document was referred under Section 47-A to the Special Deputy Collector (Stamps) for fixing the correct stamp duty. He had passed an order on 04.06.2012 fixing the stamp duty at Rs.75,389/- (Rupees Seventy Five Thousand Three Hundred and Eighty Nine only) and interest at Rs.27,144/- (Rupees Twenty Seven Thousand One Hundred and Forty Four only), totally a sum of Rs.1,02,533/- (Rupees One Lakh Two Thousand Five Hundred and Thirty Three only). Though the said order was served upon the appellant, he had chosen to file an appeal before the respondent herein after a period of 6 and ½ years. Therefore, the respondent had dismissed the appeal on the ground that it is barred by limitation. The said order is under challenge in the present appeal.

3. According to the learned counsel appearing for the appellant, the balance portion of the same survey number, namely Survey No.45/2 was purchased by one Thangarasu. The said document was also subjected to 47-A proceedings and a lesser amount was fixed by the authorities. The same order could be passed in favour of the appellant also.

4. However, the learned counsel appearing for the respondent had contended that the said Thangarasu had challenged the said order and the amount got reduced and he had paid the said amount and the document was released. In the present case, the order passed under Section 47-A was served upon the appellant and he had chosen to file an appeal before the respondent only after 6 and ½ years. Therefore, the appellant cannot compare himself with the said Thangarasu and demand for fixation of lesser stamp duty.

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

6. The appellant has purchased a property on 14.02.1996 and the said document was referred under Section 47-A to Special Deputy Collector (Stamps), Thiruchirappalli for adjudication. He had passed an order on 20.10.2005. As per Rule 9 of Tamil Nadu Stamp (Prevention of under Valuation of Instruments Rules) 1968, an appeal lies to the Inspector General of Registration within a period of two months from the date of receipt of the order by the purchaser. In the present case, admittedly, the appeal has been presented before the respondent after a period of 6 and ½ years. The said rule does not provide for any condonation of delay, even if a reasonable cause is made out. Therefore, the respondent was right in rejecting the appeal on the ground that it is barred by limitation.

7. When an appeal has been rejected on the ground that it is barred by limitation, this Court cannot set aside the said order and permit the appellant to pay the same stamp duty as that of the said Thangaraj. That would amount to interfering in the order on merits. The respondent shall return the document on payment of the necessary stamp duty and the interest thereon. If there is any scheme available, the appellant is entitled to avail the same.

8. With the above said observations, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

16.03.2023

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

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To

1.The Inspector General of Registration
cum Chief Revenue Controlling Authority,
Chennai.

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

R.VIJAYAKUMAR ,J.

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Order made in
C.M.A(MD)No.874 of 2017

16.03.2023