BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :06.04.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.8083 of 2016
and
W.M.P.(MD).No.6601 of 2016

1.M.Ghouse Batcha

2.Sahira Banu

3.Rahimunisha Begam

4.Habibunisa Begam

5.Minor Hudha Mohammed
Represented by her mother/guardian
Sahira Banu ... Petitioners

Vs.

1.The Sub Registrar,
Tallakulam,
Madurai.

2.The Special Deputy Collector (Stamps)
Madurai.

3.The Inspector General of Registration,
100, Santhome High Road,
Chennai 600 028. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus setting aside the levy of the first respondent dated 16.06.2015 fixing the value of the property at Rs.1,25,94,500/- and collecting Rs.2,72,615/- towards deficit stamp duty and Rs.38,945/- towards registration fee for document bearing registration No.1995/2015 and direct the respondents to refer the document No.1995/2015 registered before the first respondent herein to the proceedings under Section 47-A of the Tamil Nadu Stamp Act to determine the marker value of the property.

For Petitioner :Mr.M.Rajaraman

For Respondents :Mr.C.Satheesh
Government Advocate

ORDER

The petitioners assail the levy of stamp duty and registration fee by the respondents on the basis that the value of the property is Rs. 1,25,94,500/-. Consequently, the petitioners seek a reference of Document No.1995/15 before the first respondent under Section 47-A of the Indian Stamp Act, 1899 (the Stamp Act), as applicable in the State of Tamilnadu.

2. The petitioners state that they purchased the property bearing Door No.12A, P.T.Rajan Road, Madurai from one Alexander Devaraj under registered sale deed dated 30.04.2015 for a consideration of Rs.87,00,000/-. The said document was presented for registration before the first respondent on 30.04.2015 and the document was originally assigned pending registration No.P33/2015. According to the petitioner, without application of mind, the first respondent concluded that the document was undervalued. The petitioners further state that the first respondent determined the value of the property as Rs.1,25,94,500/- on the basis of a report dated 15.06.2016. Consequently, additional stamp duty of Rs.2,72,615/- and additional registration fee of Rs.38,945/- was demanded.

3. After paying the amount demanded towards the additional stamp duty and registration fees, the petitioner has filed the present writ petition challenging the said levy and requesting that the matter be referred for consideration under Section 47-A of the Stamp Act.

4. Learned counsel for the petitioner submits that the amount demanded by the first respondent was paid under the misconception that it

was pursuant to an order. Eventually, it turned out that no order was issued demanding such payment and it was no more than an entry in the records of the first respondent. Learned counsel asserts that the petitioners were compelled to pay the said amount and that the payment was not made with the free consent of the petitioners.

5. Learned Government Advocate submits that the guideline value of the land was Rs.5,000/- per sq.ft. The value of the building, as declared by the petitioner in Form-I A, was Rs.28,58,250/-. The extent of the property is 1947.1/4 sq.ft. At the guideline value of Rs.5,000/- per sq.ft, the total value of the land was Rs.97,36,250/-. If the value of the building is added thereto, it aggregates to Rs.1,25,94,500/-. Therefore, he states that stamp duty and registration fees were payable on the basis of the aggregate value of Rs.1,25,94,500/-. Upon computing the stamp duty and registration fees, the petitioners were put on notice and they paid the said sum. Therefore, learned counsel submits that there is no infirmity in the proceedings of the first respondent and no interference is called for.

6. The sale deed is on record. The said sale deed indicates that the document was registered as Document No.1995/2015. It also bears an endorsement that the total value of the property is Rs.1,25,94,500/- and that deficit stamp duty and registration fees of Rs.3,11,560/- was collected on 16.06.02015. Thus, it is evident that the sale deed was registered after collecting the deficit stamp duty and registration fees. Apart from the sale deed, the petitioners have placed on record the notice issued by the Sub-Registrar to the petitioners' vendor under copy to the first petitioner for an enquiry on 19.05.2015. Learned counsel for the petitioner confirmed that the petitioners attended the said enquiry. From these documents, the picture that emerges is that the petitioners were put on notice about the deficit stamp duty and registration fees and, upon receipt of such notice, they proceeded to pay the amount demanded towards deficit stamp duty and registration fees. After making such payment, by letter dated 03.10.2015, for the first time, the first petitioner alleged that the amount was paid under compulsion.

7. Section 47-A (1) applies to a situation where the registering authorities have reason to believe that the market value of the property was

not truly set forth in the instrument. After the registering authority arrives at such conclusion, the relevant instrument is required to be referred to the collector for determination of the market value after registration. In this case, upon being informed about the additional stamp duty and registration fees, the petitioners proceeded to pay the additional stamp duty and registration fees without raising an objection. Such objection was raised for the first time on 03.10.2015, which is about four months after the deficit stamp duty and registration fees were paid. Apart from the unsubstantiated statement that these amounts were paid under compulsion, there is no evidence that any objection was raised by the petitioners to the payment of the additional stamp duty and registration fees. In these circumstances, it was unnecessary to make a reference under Section 47-A.

8. One more significant aspect should be taken into account. In the counter of the respondents, it is stated that the guideline value of the land was Rs.5,000/- per sq.ft at the relevant time. The petitioners are unable to controvert the statement. If calculated on the basis of the guideline value of Rs.5,000/- per sq.ft., by adding the building value, as declared by the petitioner in Form-1A, the aggregate value of the property, as determined by

the registering authority, appears to be correct.

9. When these facts and circumstances are considered cumulatively, no case is made out for interference with the proceedings of the respondents. For reasons aforesaid, W.P.(MD).No.8083 of 2016 is dismissed without any order as to costs. Consequently, connected W.M.P.(MD).No.6601 of 2016 is closed.

06.04.2023

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

1.The Sub Registrar,
Tallakulam,
Madurai.

2.The Special Deputy Collector (Stamps)
Madurai.

3.The Inspector General of Registration,
100, Santhome High Road,
Chennai 600 028.

SENTHILKUMAR RAMAMOORTHY, J.

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