IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

<u>Civil Miscellaneous Appeal No.2639 of 2024</u>

Biju Chockko ... Appellant

Vs.

1. The Tamil Nadu Principal Revenue Controller,
and Inspector General of Registration,
having office at Mylapore,
Santhome High Road,
Mylapore, Chennai-28.

2. The District Revenue Officer (Stamps)
Office of the District Revenue Officer (Stamps)
Office of the District Collector,
V Floor, Singaravelar Maligai,
No.32, Rajaji Salai, Chenani-1.

3. The Joint Sub Registrar-1,
Chennai Central,
Office of the Joint Sub Registrar-1,
Chennai Central,
Rajaji Salai, Chennai-1. ... Respondent

Civil Miscellaneous Appeal filed under Section 47 A(10) of the Indian Stamp Act, 1899, against the order passed by the Tamil Nadu Principal Revenue Controller cum Inspector General of Registration at Mylapore

Chennai for in proceedings bearing Reference No.22279/N5/2008 under Section 47 A (5) of the Indian Stamp Act 1899 dated 06.07.2010.

For Appellant : Mr.A.Palaniappan

For Respondents : Mr.D.Gopal, G.A. RR1 to 3

JUDGMENT

The present appeal has been filed against the order passed by the Tamil Nadu Principal Revenue Controller cum Inspector General of Registration at Mylapore Chennai in proceedings bearing Reference No.22279/N5/2008 under Section 47 A (5) of the Indian Stamp Act 1899 dated 06.07.2010.

2. It is the case of the appellant that he had purchased a flat property bearing No.10, Third Floor situated in plot No.6, Door No.4A, Rathna Nagar first street, Teynampet, chennai-18 measuring an extent of 1034 sq. ft. including common area together with 1034/11305 undivided share in the land measuring 2 grounds 1978 sq. ft. comprised in S.No.3836/1 and 3857 for a sale consideration of Rs.21,50,000/-. In respect of the aforesaid property, the appellant had valued the undivided share in the land at Rs.3,051/- per square feet amounting to

Rs.18,91,500/- and the appellant had valued the building which is subject matter of conveyance being the flat structure of an extent of 1034 sq. ft. situated on the third floor together the value of the common area at Rs.2,58,500/- in all the total market value of the flat was Rs.21,50,000/- and the same was registered on 18.02.2008 vide document No.151 of 2008 on the file of the third respondent. The third respondent found that in respect of the property situated in the said locality at Rs.9,500/- per sq.ft. Which is exorbitant. Hence, the third respondent had referred the matter under Section 47 A (1) of the Indian Stamp Act to the second respondent. The second respondent vide its order dated 22.04.2008 fixed the market value of the property for a sum of Rs.9375/- per sq. ft. and the building value was arrived at Rs.3,98,904/- and the second respondent had demanded a deficit stamp duty for a sum of Rs.3,31,120/- in respect of the document which was subjected to registration. Aggrieved by the said order, the appellant preferred appeal before the first respondent. The First respondent has confirmed the order passed by the second respondent vide its order dated 06.07.2010 and demanded a sum of Rs.3,98,904/- with 2% interest per month. Challenging the same, the present appeal has been filed before this Court.

3. The learned counsel for the appellant submitted that at the time of registration, the value of the subject property is Rs.3,500/- per sq. ft. whereas the first and second respondents, without considering the factual position and the market value, have fixed a sum of Rs.9375/- per sq. ft. and demanded a sum of Rs.3,98,904/- as deficit stamp duty, which is highly exorbitant. However, the learned counsel for the appellant submitted that without interfering with the impugned order, this Court may confirm the amount as ordered by the first respondent and set aside the interest portion alone. The appellant is ready to pay the stamp duty, which was ordered by the first respondent.

4. The learned Government Advocate appearing for the respondent submitted that even on the date of the execution of the documents, the guideline value is higher than the value shown in the documents. He reiterated the findings of the authority stating that it is based on the documentary evidence and it was fixed upon field inspection.

5. Heard the learned counsel for appellant and the learned

Government Advocate appearing for the respondents and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the appellant has presented the document for registration vide document No.151 of 2008 on 18.02.2008 in respect of the property situated at No.10, 3rd floor, Teynampet, Chennai measuring an extent of 1978 sq. ft. in S.No.3856/1 & 3857 and valued the property for a sum of Rs.21,58,000/- and the appellant claimed that the land value is Rs.3,050/-.

7. The respondents have produced the guideline value of the property pertaining to the said locality. It is the specific case of the respondents that based on the guideline value, the value of the property has been fixed for determining the stamp duty payable and, in fact, the value of the property has been fixed even below the guideline value prevalent in the locality. This Court went through the records and on perusal of the same, it reveals that the guideline value of the property in the locality on the date of submitting the document for registration is more than the value fixed by the respondents, which value has been fixed

after conducting field inspection and enquiry. Based on the same, the first respondent fixed the value at Rs.9,375/- per sq. ft. and directed the appellant to pay a sum of Rs.3,98,904/- as deficit stamp duty. Once the first and second respondents have fixed the guideline value on the basis of the documents, the same cannot be interfered with unless the contrary is proved.

8. Be that as it may. The learned counsel for the appellant has submitted that the appellant is now ready and willing to pay the entire amount which was fixed by the first respondent in the impugned order as deficit stamp duty and he requests that this Court may reduce the interest portion due to efflux of time by exercising its inherent jurisdiction under Article 226 of the Constitution so as to give relief to the petitioner, as the petitioner has been diligently advancing his grievance before the judicial forum.

9. In view of the stand taken by the petitioner with regard to payment of deficit stamp duty, no interference is warranted with the said portion of the impugned order. However, notwithstanding the same, it is

to be pointed out that the relief of waiver of interest on the deficit stamp duty sought for cannot be granted as payment of stamp duty is revenue to the State and this Court court cannot deduct the entire interest, thereby affecting the interests of the State.

10. In the aforesaid circumstances, this Civil Miscellaneous Appeal stands dismissed directing the appellant to pay a sum of Rs.Rs.3,98,904/- towards deficit stamp duty along with interest at the rate of 6% per annum from 18.02.2008 till the date of payment.

04.11.2024

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Speaking Judgment/Non-speaking Judgment
Index :Yes/No
Neutral citation: Yes/No

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