IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE K. RAJASEKAR

C.M.A.No.1968 of 2021

Dr.R.Jaganathan ... Appellant

Vs.

The District Revenue Officer (Stamps)
Chennai 600 001. ...
Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 47-A(10) of the Indian Stamp Act, 1899, against the order of the Chief Controlling Revenue Authority/Inspector General of Registration, Chennai dated 04.05.2021 in Na.Ka.No.10413/N1/2014.

For Appellant : Mr.K. Selvaraj
For Respondent : Mr.B.Tamil Nidhi
Additional Government Pleader

JUDGMENT

This appeal has been filed challenging the order of the Chief Controlling Revenue Authority/Inspector General of Registration, Chennai dated 04.05.2021 in Na.Ka.No.10413/N1/2014.

2. The appellant herein is the legal heir of the original owners namely Dr.Suganthi Rajagopalan and Dr.Sashikala Rajagopalan, the last purchaser of the property situated at New Door No.99, Old Door No.80, Vidya Mandir First Street, Mylapore, Chennai 600 004 to the extent of 2779 m2 (=12 grounds 1115 ft 2) with Bungalow, as per sale deed dated 12.07.2001. After 4 years, the Sub Registrar, Mylapore has addressed a letter dated 04.10.2005 to the District Revenue Officer (Stamps), Chennai to initiate proceedings under Section 47-A(3) of the Indian Stamp Act, 1899. Based on the above proceedings, the District Revenue Officer (Stamps), Chennai has conducted an enquiry and ordered payment of deficit stamp duty of Rs.1,71,470/-. Aggrieved over the above order, the appellant has approached the appellate authority namely the Chief Controlling Revenue Authority/Inspector General of Registration, Chennai, who in turn, after conducting enquiry, has confirmed the order of the District Revenue Officer (Stamps). Aggrieved over the above proceedings directing the payment of deficit Stamp Duty, the appellant has approached this Court by way of the present appeal.

3. The learned counsel appearing for the appellant submitted that the District Revenue Officer (Stamps), Chennai has initiated a suo motu proceedings after a lapse of four years which is barred by limitation as per Section 47-A (3) of the Indian Stamp Act, 1989. He further submitted that the land purchased by him is a portion of building and already a separate proceeding was initiated to another portion of the building purchased by one of his relatives in which the boundary of the property has been wrongly stated as Royapettah High Road, Mylapore, Chennai. He would submit that the western boundary falls not on the Royapettah High road but it only falls on the building having New Door No.99, Old Door No.80, Vidya Mandir 1st street, Mylapore, Chennai. Hence, the assumption made on the basis that the property is situated on the Royapettah High Road, Mylapore, Chennai is not proper. Therefore, the order dated 04.05.2021 passed by the Chief Controlling Revenue Authority/Inspector General of Registration, Chennai is liable to be set aside.

4. The learned Additional Government Pleader submitted that the

Appellate Authority as well as the original authority has taken note of the exact location of the property more particularly, boundary on the western side. In the schedule of property stated in the sale deed in question, it has been categorically stated that the property is in dispute is undivided one - "KUMARA VIJAYAM" New Door No.99, Old Door No.80, Vidya Mandir 1st street, Mylapore, Chennai. Based on the boundary and after getting instructions, the property has been rightly assessed by the authorities. He further submitted that the order pertaining to the portion of the building, which was earlier subjected to in the suo motu revision, was set aside in CMA.No.172 of 2000 on the file of the Ist Assistant Judge, City Civil Court, Chennai filed by the owner of the property and it was again remanded to the original authority for reconsideration and the said proceedings were taken place much piror to the property purchased herein by the appellant's predecessor. Hence the previous order passed regarding the other portion of the property is not applicable to the case of the appellant herein.

5. The core point that arises for consideration in the present appeal is whether the property purchased by the appellant's predecessor falls on the

western side boundary, namely, Royapettah High Road.

6. According to the authorities, the building is bounded on the western side Royapettah High Road, whereas the case of the appellant is that, it was not bounded on the western side boundary of the Royapettah High Road and it has entrance only in Vidya Mandir First Street and it has to be considered only as property situated and assessment has to be made as per the value fixed for the property situated at the Vidhya Mandir First Street, Mylapore.

7. On perusal of the order of the Appellate Authority, it shows that Vidya Mandir First Street of Mylapore was having the value of Rs.1448/- whereas, 1 sq.ft in Royapettah High Road was having the value of Rs.2860/-. It is an admitted fact that the other portion of the property has been reassessed by the authorities taking into consideration the value of the property situated at the Vidya Mandir First Street. The dispute herein is that the property is not bounded on the Royapettah High Road. The authorities have given various reasons regarding the location of the property and have fixed the valuation as the property situated on the Royapettah High Road.

8. On a perusal of the schedule of the property, it is stated that western side by Door No.99, Old Door No.80, Vidya Mandir First Street, Mylapore, Chennai 600 004. It is not bounded on the Royapettah High Road However, the finding of both the authorities is that the properyt is situated on the Royapettah High road. Nothing has been produced by both sides to establish their respective case. That apart, no proper enquiry has been conducted by the authorities. Further, another portion of the property has been accepted as a property situated in Vidya Mandir 1st Street, Mylapore, and accordingly assessed the value of the property situated in Vidya Mandir Street.

9. For all the reasons stated above, I am of the view that the order of the authortities required to be reconsidered and a finding has to be given by the authorities whether the property in question falls on the Royapettah High Road or Vidya Mandir First Street, Mylapore, Chennai 600 004. The Appellate Authority has stated that the appellant has failed to produce tax receipt to show the location of the property. Since in the report, the District Registrar has stated that the Door number of the property in question comes

on Royapettah High Road, it is necessary to fix the value at Rs.2860/- per sq.ft. In fact, there is no concrete proof to arrive at such finding. Therefore, the interest of justice warrants this matter to be remitted back to the original authority for considering the matter afresh based on the documents produced by the parties and fix the correct value of the property in question. While considering the matter afresh, the original authority is directed to take note of the order passed by the learned Ist Additional Judge, City Civil Court, Chennai as well as the subsequent order passed by the authorities based on the remanded order. The said exercise is directed to be carried out by the original authority within a period of twelve weeks from the date of receipt of a copy of this order.

10. In the result, this Civil Miscellaneous Appeal is allowed. No costs.

06.02.2024

Index : Yes / No
Internet : Yes/ No
dpq

K. RAJASEKAR, J.

dpq

To

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

2. The District Revenue Officer (Stamps)
   Chennai 600 001.

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