IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.M.A. No.2200 of 2021

S. Elavarasan ... Appellant

Vs.

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

2. The Special Thasildhar, (Stamps)
Taluk Office Complex,
Villupuram.

3. The Deputy Collector (Stamps)
Cuddalore. ... Respondents

Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act against the Order in Pa.Mu.No.8703/N3/2014, dated 03.11.2015 passed by the Inspector General of Registration cum Chief Controlling Revenue Authority, Chennai - 28.

For Appellant : M/s. N. Suresh

For RR 1 & 3 : M/s. C. Selvaraj
(Additional Government Pleader)

JUDGMENT

This Civil Miscellaneous appeal has been filed by the appellant challenging the Order in Pa.Mu.No.8703/N3/2014, dated 03.11.2015 passed by the Inspector General of Registration cum Chief Controlling Revenue Authority, Chennai – 28, in which, the appellant was directed to pay the additional stamp duty for the land purchased by him under Section 47-A of the Stamp Act.

2. The case of the appellant herein is that, he purchased a property situated in Survey No.525/2A2 of the Vazhuthareddy village, Villupuram Taluk to the extent of 1090 square feet / 101.26 square metre. Subsequently, enquiry to fix the value of the property was taken by the Collector of Stamps under Section 47-A of the Stamp Act. He submitted his explanation regarding the value of property purchased. Subsequent to his explanation and after conducting survey, the second respondent has passed an Order dated 05.11.2013, whereby the second respondent has fixed the value of the property puchased by the appellant herein as Rs.396/- per square feet.

4. Aggrieved over the Order passed under Section 47-A of the Stamp Act, the appellant has approached the Inspector General of Registration cum Chief Controlling Revenue Authority, who inturn confirmed the Order passed by the second respondent.

5. The learned counsel for the appellant submitted that as per the guideline value fixed by the first respondent, the value of the land situated in Survey No. 525/2A2 is Rs.5,50,000/- per acre and Rs.1,35,99,000/- per hectare. The land is also classified as 'Dry Well Irrigation Type-III' land. Without giving consideration to this guideline value, the respondents have revised the guideline value and fixed the same as Rs.396/- per square feet, without any basis to do so. According to him, without any data land or sale deed, fixing the value of the property is against the principle of Section 47-A of the Stamp Act and prays to set aside the same. He also relied on the judgment of this Court in ***Ezhilarasi and Ors. Vs. The Inspector General of Registration and Ors. [2009 (1) CTC 698]*** for his contention.

6. The learned Special Government Pleader submits that concerned Officers, have conducted a detailed survey in-person along with the appellant herein of the purchased property and it is also admitted that

there was a Residential Layout in the name of Annamalai Nagar, very close to the property purchased by the appellant herein and based on the local inspection and due enquiry, the Order of fixing the value of land is made by the Officers / respondents. There is also a detailed explanation given in the Order, hence the Order passed by the first respondent is valid and prays to confirm the same.

7. I have considered the submissions made on both sides and perused the materials available on record.

8. In ***Ezhilarasi and Ors. Vs. The Inspector General of Registration and Ors.*** cited supra, the Division Bench of this Court has observed in paragraph nos. 9 and 10 as follows:

> *9. On going through the impugned order of the first respondent in both the cases, it is apparent that the authority has proceeded to refix the market value mainly on the basis of the guide line value. Though reference is made to certain documents which are bereft of details and particulars, the main stay of the departments case is the guideline value. The Guideline value, as such, cannot be the market value and the respondents have proceeded on that wrong premise. As to the relevance of the guideline value in determining the market value, the following decision need to be considered.*
>
> *Collector of Nilgiris v. Mahavir Plantations Pvt. Ltd. reported in A.I.R. 1982 Mad 138, it is held as follows:*

> *The valuation guidelines prepared by the Revenue Officials at the instance of the Board of Revenue were a vowedly intended merely to assist the Sub-Registrars to find out, prima facie, whether the market value set out in the instruments had been set forth correctly. The guidelines were not intended as a substitute for market value or to foreclose the inquiry by the Collector which he is under a duty to make under Section 47-A. The valuation guidelines were not prepared on the basis of any open hearing of the parties concerned or of any documents. They were based on date gathered broadly with reference to classification of lands, grouping of lands and the like. This being so, the Collector acting under Section 47-A cannot regard the valuation guidelines as the last word on subject market value. To do so would be to surrender his statutory obligation to determine market value on the basis of evidence which is a judicial or a quasi judicial function which he has to perform*

In S.P. Padmavathi's case reported in MANU/TN/0042/1997 : AIR 1997 Mad 296 , it is held as follows:

> *It is also further held that the market value under Section 47-A would not be the market value, as determined under the Land Acquisition Act. Open market is an objective standard which lays down that the market value to be adopted by the Collector and the market value which the parties are required to adopt in their instruments must be a fair market value in the sense that there are no economic shackles or inhibitions of any kind which prevent the price level from finding its level. Thus the conception of open market rules out, at one end, fancy prices, and at the other end, distress sales. Economic equilibrium is the hall mark of open market.*

10. In R. Sai Bharathi v. J. Jayalalitha and Ors. reported in MANU/SC/0956/2003 : 2003 4 L.W. 825, the relevance of guideline value was considered by the Apex Court and stated that guideline value alone is not a factor to fix the market value of the property.

The relevant portion in the said decision reads thus:

> *23. The guideline value has relevance only in the context of Section 47-A of the Indian Stamp Act (as amended by TN Act 24 of 1967) which provides for dealing with instruments of conveyance which are undervalued. The guideline value is a rate fixed by authorities under the Stamp Act for purposes of determining the true market value of the property disclosed in an instrument requiring payment of stamp duty. Thus the guideline value fixed is not final but only a prima facie rate prevailing in an area. It is open to the registering authority as well as the person seeking registration to prove the actual market value of property. The authorities cannot regard the guideline valuation as the last word on the subject of market value. This position is made clear in the explanation to Rule 3 of Prevention of Undervaluation of Instruments Rules. The said Explanation reads as follows:*
>
> > *Explanation - the 'Guidelines Register' supplied to the officers is intended merely to assist them to ascertain prima facie, whether the market value has been truly set forth in the instruments. The entries made therein regarding the value of properties cannot be a substitute for market price. Such entries will not foreclose the enquiry of the Collector under Section 47-A of the Act or fetter the discretion of the authorities concerned to satisfy themselves on the reasonableness or otherwise of the value expressed in the documents.*
>
> *24. This explanation also will have to be read in conjunction with explanation to Section 47-A of the Indian Stamp Act (as amended by TN Act 24 of 1967) which reads:*
>
> > *Explanation - For the purpose of this Act, market value of any property shall be estimated to be the price which, in the opinion of the Collector or the Chief Controlling Revenue Authority or the High Court, as the case may be, such property would have fetched or*

would fetch, if sold in the open market on the date of execution of the instrument of conveyance, exchange gift, release of benami right or settlement.

25. This Scheme of the enactment and Rules contemplate that guideline value will only afford a prima facie basis to ascertain the true or correct market value undue emphasis on the guideline value without reference to the setting in which it is to be viewed will obscure the issue for consideration. It is clear, therefore, that guideline value is not sacrosanct as urged on behalf of the appellant, but only a factor to be taken note of if at all available in respect of an area in which the property transferred lies. In any event, therefore, if for the purpose of Stamp Act guideline value alone is not a factor to determine the value of property, its worth will not be any higher in the context of assessing the true market value of properties in question to ascertain whether the transaction has resulted in any offence so as to give a pecuniary advantage to one party or the other."

9. On perusal of the Order passed by the Collector on 31.10.2013 based on the reference made by the Sub-Registrar, the Collector of (Stamps) / Respondent No.3 herein has initiated the proceedings under Section 47-A of the Stamps Act. He has conducted the survey in-person, and in the inspection, the appellant herein also participated. He has stated in the Order that the property purchased by the appellant is situated two kilometers from Villupuram to Thirukoilur road and also very near to the Annamalai Nagar residential layout and the land was also been measured. He has also recorded that, the land is not having any basic amenities for treating it as a

housing plot and it was an agricultural field. However, the encumbrance certificate for the last six years shows that, the land is treated as housing plot and the guideline value is Rs.495/- per square feet is acceptable for the housing plots. Taking note of the proximity of land and availability of road, he fixed Rs.396/- per square feet as value of the property.

10. This Court in ***Rt.Rev. Lawrance, Mar. Ephaream, Auxiliary Bishop of Arch, Diocease by Attorney P.C.Chacko vs. The State of Tamil Nadu rep. By the District Collector of Kanyakumari at Nagercoil and others [1998 (I) CTC 334]***, had occasion to interpret Section 47-A of the Act, held that, under section 47-A(3) of the Act. The Collector is having suo-motto power for examining the correctness of the market value of the property registered / fixed and entitled to recover additional stamp duty for the transanction effected. The Collector acting under Section 47-A, cannot treat the guideline valuation as the last word on the subject market value. To do so, would be to surrender his statutory obligation to determine market value on the basis of evidence, which is a judicial or a quasi judicial function which he has to perform.

11. By acting under Section 47-A, the Collector herein has not only taken the guideline value fixed on the housing plots prevailing in the nearby areas, he has also recorded his satisfaction, further, he has explained the reasons for fixing value for the purpose. The Order of the Collector, as well as the Order passed by the Inspector General of Registration cum Chief Controlling Revenue Authority is incorporated as follows:

ஆவணச்சொத்துக் குறித்த துறையின் விசாரணை அறிக்கையில் ஆவணச்சொத்து விழுப்புரம்-திருக்கோவிலூர் நெடுஞ்சாலையில் அதாவது விழுப்புரம் நான்குமுனை சந்திப்பிலிருந்து மேற்கில் சுமார் 2 கி.மீ. தூரத்தில் தெற்கே பிரியும் பாளையம் கிராமத்திற்குச் செல்லும் ரோட்டில் சுமார் 300 மீட்டர் தொலைவில் இரயில் செல்லும் பாதையைக் கடந்த பிறகு P.K.S. நகர் மற்றும் அண்ணாமலை நகருக்கு இடையில் அமைந்த சாலையில் சுமார் 50 மீட்டர் தொலைவில் அமைந்துள்ளது எனவும், ஆவணச்சொத்துக்கு கிழக்கில் சுமார் 2.5 கி.மீ. தொலைவில் விழுப்புரம் நகர மார்க்கெட் பகுதி, வணிக வளாகம், பேருந்து நிலையம், மருத்துவமனைகள் மற்றும் கல்விக்கூடங்கள் அமைந்துள்ளன எனவும், இரயில் நிலையம் சுமார் 4 கி.மீ. தொலைவில் அமைந்துள்ளது எனவும், தற்போது இப்பகுதியானது நகரத்தை ஒட்டி வளரும் பகுதியாகக் காணப்படுகிறது எனவும், ஆவணச்சொத்தில் இருந்து சுமார் 200 மீட்டர் தொலைவில் மனைப்பிரிவுகள் காணப்படுகின்றன எனவும், ஆவணச்சொத்தின் வடக்கில் இரயில் செல்லும் பாதையும், மேற்கில் சுமார் 50 மீட்டர் தொலைவில் P.K.S. நகர் மற்றும் அண்ணாமலை நகர் காணப்படுகிறது எனவும், P.K.S. நகரில் குடியிருப்பு வீடுகளும் அதனைத் தொடர்ந்து உள்ள [illegible] [illegible]த்தில் குடியிருப்பு பகுதிகளும் காணப்படுகிறது எனவும் தெரிவித்துள்ளார்

12. The above paragraph clearly shows that the subject property is situated two kilometers from Villupuram to Thirukoilyur Highway and near to residential area. Based on the above observations and also proximity that the subject property is situated near bus stand, railway station and commercial area, he has fixed the value of the land taking note of the market

value of the housing sites prevailing in that area.

13. As observed by the Apex Court in ***R. Sai Bharathi v. J.Jayalalitha and Ors.[2003 4 L.W. 825]***, guideline value alone is not a factor to fix market value, and it is fixed under the Stamp Act for the purposes of determining true market value of the property disclosed in instruments. The market value fixed is not final. It is open to the Registering Authorities as well as the person seeking registration to prove the actual market value. Considering the proximity and infrastructure facilities available around the subject property and nearby land already developed as approved layout would be the relevant factor for deciding the market value of the property. The sale deed registered in the name of the appellant herein shows that he has not registered the same as agricultural field whereas, he registered it as a vacant housing plot, hence he estopped from claiming that he has purchased an agricultural land. Similarly, the Collector as well as the first respondent has taken note of the guideline value of the nearby housing plots i.e. Rs.495/- per square feet, and they have not fixed the very same value to the appellant land herein and they have fixed Rs.396/- per square feet instead of Rs.495/- per square feet, which shows

that they have applied their mind based on various factors which are discussed in their Orders. Since, there are several factors relied on by the Registering Authorities and there is no other contra evidence, not even prima facie has been produced by the Appellant herein to discard the reasons given by the Authorities. This Court is of the view that the impugend Order has given ellaborate reasons and they are sufficient to sustain the impugned Order. Accordingly, this Court finds no infirmity in the above fixing of the guideline value and inclined to confirm the same.

14. In the result, this Civil Miscellaneous Appeal is dismissed. No cost.

23.02.2024

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Index:Yes/No
Speaking Order:Yes/No
Neutral Citation Case: Yes/No

K. RAJASEKAR, J.

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To:

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

2. The Special Thasildhar, (Stamps)
   Taluk Office Complex,
   Villupuram.

3. The Deputy Collector (Stamps)
   Cuddalore.

4. The Section Officer,
   V.R.Section,
   High Court, Chennai.

C.M.A. No. 2200 of 2021

23.02.2024