BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A.(MD)No.1437 of 2011

1. V.Kandasamy (died) ... Appellant/Appellant

2. Lakshni
3. Murugesan ... Appellants

(Appellants 2 and 3 are brought on record as LRs of the deceased Sole appellant vide order of this Court dated 01.02.2024 made in C.M.P(MD) No.1122 of 2024 in C.M.A (MD) No. 1437 of 2011)

-vs-

1. The Tamil Nadu Chief Revenue Controller cum Inspector, General of Registration, Santhom High Road, Chennai – 28.

2. The Special Collector (Stamps) Trichy.

3. The Sub – Registrar, Vellianai Karur District. ... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47(A) (10) of Stamp Act, against the order passed in Pa.Mu.No.62295/N.4/08, dated 23.06.2011 on the file of the Tamil Nadu Chief Revenue Controller cum-Inspector General of Registration/1st Respondent.

For Appellants : Mr.N.Shanmugaselvam
For Respondents : Mr.G.Sivaraja
Government Advocate (Crl.Side)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant as against the order passed in Pa.Mu.No.62295/N.4/08, dated 23.06.2011 on the file of the Tamil Nadu Chief Revenue Controller-cum-Inspector General of Registration/1st Respondent, wherein, the appellant herein has preferred the appeal as against the order passed by the second respondent herein in Tha.Pa.No.3023/2008, dated 28.11.2008.

2. The appellant purchased the property in S.F.No.1487/5C Hectare 0.13.76 S.F.No.1487/6 Hectare 0.66.50 and S.F.No.1487/7 Hectare 0.70.5 a total extent of 3.72 Acres. The document was registered in No.36/08 by fixing

the price as registered value of Rs.1,71,834/- per Acre. The guideline value of the property was Rs.4,23,500/- per hectare. Since there was factory and buildings in the property, rate was fixed as Rs.335/- per square meter by the Sub Registrar. The Sub Registrar sent the document to the Special Stamp Collector under Section 47-A(1) of Stamp Act. The Special Collector (Stamps) fixed the value of Rs.225/- per square meter. The appellant herein has preferred the appeal as against the order passed by the Special Collector (Stamps) under Section 47-A (5) of Stamp Act. In that appeal, the first respondent had sought for report from the District Registrar by fixing the land value.

3. The District Registrar, after inspecting the property, fixed the value as Rs.335/- per square meter. Based on the above said report, the first respondent has dismissed the appeal by confirming the value of Rs.335/- per square meter. As against the order passed by the first respondent, the present appeal has been preferred by the appellant.

4. The learned counsel appearing for the appellants would contend that the first respondent has enhanced the amount of value of the property in the

appeal filed by the appellant. When there is no appeal filed by the Department, in the appeal filed by the first appellant, the authority cannot enhance the amount, but the first respondent without any basis enhanced the amount from Rs.225/- to 335/- per square meter. Already, the appellant disputed the value of the property and thereby, the documents were referred by the third respondent, to the second respondent/Special Collector (Stamps) Trichy, to fix the value of the above said property under Section 47-A (1) of Stamp Act.

5. After discussing about the distance and the features fixed for the adjacent property, the second respondent/ Special Collector fixed the value of the property at Rs.225/- per square meter and the same was challenged in the appeal before the first respondent. In that appeal, the present impugned order has been passed by the first respondent, based on the report submitted by the District Registrar. Therefore, the order passed by the first respondent is liable to be set aside.

6. The learned counsel appearing for the appellant relied upon the following judgments:

i. ***(2009) 3 MLJ 672 (R.V. Refractories, represented by its Managing Partner R.Sathia Vageeswaran @ R.S.V Eshwar vs. District Revenue Officer (Stamps) Collectorate, Chennai and another)***

2. (2012) 4 MLJ 704 (Rajendran vs. Inspector General of Registration, Chennai and others).

7. The learned Government Advocate appearing for the respondents would contend that the guideline value is Rs.335/- per square meter and based on the guideline value, the Sub Registrar fixed the Stamp Duty, but the appellant has paid lesser Stamp Duty and thereby, the documents were sent under Section 47-A(1) of Stamp Act to the Special Collector (Stamps) and he inspected the property and based on the available material, he fixed a sum of Rs.225/- per square meter. As against the order passed by the Special Collector (Stamps), the appellant has preferred the appeal under Section 47-A(5) Stamps Act. The first respondent has called for report from the District Registrar in respect of the value of the property. The District Registrar inspected the property and after analyzing available facility and the nature of property, fixed a sum of Rs.335/- per square meter and based on the report of the District Registrar, the first respondent has passed the order while fixing

the value of Rs.335/- per square meter. Therefore, the order passed by the first respondent is in order and the present appeal is liable to be dismissed.

8. This Court heard both sides and perused the materials on record.

9. The main contention of the appellant is that the Special Collector (Stamps) was appointed for the particular purpose has fixed a sum of Rs.225/- per square meter. As against the order passed by the second respondent/ the Special Collector (Stamps), the appellant has preferred an appeal to reduce the value of the property. In that appeal, without any appeal filed by the Department, the first respondent has enhanced the amount without any basis. When a specially appointed Officer filed a report stating that the property is at about Rs.225/- per square meter, there is no authority for the District Registrar to fix the enhancement of Rs.335/- and the same is arbitrary.

10. According to the respondents, the first respondent has the power to call for report from the officers concerned and based on the report only, he enhanced amount. In this context, the learned counsel appearing for the appellant has relied upon the judgments in ***(2009) 3 MLJ 672 (R.V.***

Refractories, represented by its Managing Partner R.Sathia Vageeswaran @ R.S.V Eshwar vs. District Revenue Officer (Stamps) Collectorate, Chennai and another) and ***(2012) 4 MLJ 704 (Rajendran vs. Inspector General of Registration, Chennai and others)*** and on a careful perusal of the judgments, it is clear that the first respondent has no power to enhance the market value in the appeal preferred by the appellant and without following the procedure, the first respondent cannot fix the higher value. The first respondent has not assigned reasons to reject the value fixed by the Special Collector of Stamps. Therefore, in view of the above judgments, it is appropriate to remand back the matter to the first respondent to fix the appropriate value of the property, based on the Special Collector (Stamps) and if the first respondent authority is not satisfied with the order passed by the Stamp Collector by assigning sufficient reasons can call for report from some other authority and decide the value of the property in accordance with law. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

11. In the result, this Civil Miscellaneous Appeal is allowed and the order passed by the first respondent is set aside and the matter is remanded back to the First Appellate Authority for fresh consideration. There shall be no orders as to costs.

19.02.2024

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

1. The Tamil Nadu Chief Revenue
   Controller cum Inspector,
   General of Registration,
   Santhom High Road,
   Chennai – 28.

2. The Special Collector (Stamps)
   Trichy.

3. The Sub – Registrar,
   Vellianai, Karur District.

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

P.DHANABAL,J.

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C.M.A(MD)No.1437 of 2011

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