BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : **29.08.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No. 962 of 2010
and M.P(MD)No.2 of 2010

Chandra ... Appellant/Appellant/Document Holder

Vs.

1.The Tamil Nadu Chief Controlling Revenue Authority,
cum Inspector General of Registration,
No.120, Santhome High Road,
Chennai 28.

2. The Special Deputy Collector (Stamps),
Collector's Office,
Tirunelveli.

3.The Revenue Divisional Officer,
Tenkasi.

4. The Sub Registrar,
Surandai. ...Respondents/Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 47 A (10) of Indian Stamp Act against the order passed in Pa.Mu.No.34648/N5/07 on the file of Tamil Nadu Chief Controlling Revenue Authority dated 07.05.2010 modifying the order passed by the Special Deputy Collector (Stamps), Tirunelveli in M.S.X.2/121/97-98 S.D. Dated 29.06.2004.

For Appellant : Mr.M.P.Senthil
For Respondents : Mr.M.Muthumanikkam
Government Advocate

JUDGMENT

The instant appeal has been filed challenging the order of the 1st respondent. The appeal arises under the following circumstances:

a) The appellant had purchased the property measuring an extent of 49.25 cents in S.Nos.429/1F, 429/1E, 429/1C by sale deed dated 25.07.1997 and registered as Doc.No.1804/1997;

b)The Sub Registrar questioning the value adopted by the appellant at Rs.6/- per sq. feet had referred the sale deed to the 2nd respondent for determination of the market value;

c) The 2nd respondent on the said reference passed an order dated 29.06.2004 fixing the value of the property at Rs.14/- per sq. feet.

d) The appellant preferred an appeal under Section 56(1) of the Indian Stamp Act challenging the order passed by the 2nd respondent before the 1st respondent;

e)The 1st respondent determined the market value as Rs.15/- per sq.feet based on the sale deed registered as Doc.No.1802/1997 in respect of the properties in Sy.No.429/1G, 1J and 1J;

f) Aggrieved by the said order, the appellant has preferred the instant appeal.

2. Mr.M.P.Senthil, learned counsel for the appellant submitted that the impugned order of the 1st respondent is erroneous, inasmuch as the 1st respondent had not taken into consideration the sale deed produced by the appellant in respect of the property comprised in S.No.429/1D dated 05.08.1999; that without any basis, the 1st respondent had increased the value of the property assessed by the 2nd respondent from Rs.14/- to Rs.15/- per sq. feet; and that even as per the record maintained by the respondents, the guideline value prevailing in the property in question at the relevant point of time was Rs.10.10/-

3. Mr.Muthumanikkam,learned Government Advocate per contra submitted that the sale deed relied upon by the respondents is more relevant and closer to the property in question; and that the sale deed relied upon by the appellant does not have road access and therefore, the value adopted by the 1st respondent is in accordance with law.

4. This Court has given its anxious consideration to the submissions made on either side and perused the records carefully.

5. The point for consideration in the instant appeal is whether the impugned order fixing the value of property at Rs.15/- per sq. feet is justified.

6. A copy of the proceedings of the Sub Registrar, Surandai, has been produced by the learned Government Advocate before this Court. On a perusal of the same, it is seen that the guideline value for the property in question as on 07.08.1997 was at Rs.10.10/-. The Sub Registrar had referred the sale deed for determination of market value since the appellants had valued it at Rs.6/- per sq. feet. It is seen that the 2nd respondent, while fixing the market value at Rs.14/-, has not given any reasons or basis for the determination. The 1st respondent relied upon a sale deed dated 25.07.1997 registered as Doc.No.1802/1997, which pertains to S.No.429/1I, 1G, 1H and 1J, which is abutting the subject property on the southern side wherein the value determined was Rs.14/- per sq. feet. The appellant had produced the sale deed dated 05.08.1999 in respect of the property comprised in S.No.429/1D, which abuts the subject property on the northern side, where the value was determined at Rs.9/- per sq. feet.

7.Both the sale deeds, namely, the sale deed relied upon by the 1st respondent and the sale deed relied upon by the appellant, pertain to the properties, which abut the subject property. It is difficult to choose between the two sale deeds. Hence, the order of the 1st respondent in relying upon the high value shown in one sale deed cannot be sustained. At the same time, the value reflected in the sale deed relied upon by the appellants also cannot be preferred. The guideline value at the relevant point of time was Rs.10.10/- admittedly, which appears to be the fair value of the subject property considering the market value shown in the aforesaid sale deed. Hence, this Court is of the view that the 1st respondent ought to have adopted the guideline value.

8**.** Consequently, the value of the property is fixed at Rs.10.10/- per sq. feet. The appellant is liable to pay the stamp duty in terms of the above value fixed by this Court. The 2nd respondent shall pass an order determining the stamp duty payable by the appellant on the basis of the value fixed by this Court and direct the appellant to pay the stamp duty and release the document on payment of stamp duty so fixed. The 2nd respondent shall pass such order as expeditiously as possible and in any event, within a period of two months from the date of receipt of a copy of this order.

9. Hence, this Court is of the view that the impugned order is liable to be set aside. Accordingly, the same is set aside.In fine, this appeal is partly allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

29.08.2024

Index : Yes / No
Neutral Citation : Yes / No
CM
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4. The Sub Registrar,
Surandai.

5. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

SUNDER MOHAN, J.

CM

Judgment made in
C.M.A(MD)No. 962 of 2010
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