BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26.02.2024

CORAM:

THE HON'BLE MR.JUSTICE **P. DHANABAL**

C.M.A(MD)No.491 of 2013
and
M.P(MD)No.1 of 2013

I.Ravi ... Appellant/Petitioner

Vs.

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

2.The Special Deputy Collector (Stamp),
Collectorate Campus,
Kokkirakulam,
Tirunelveli District.

3.The Sub Registrar,
Panagudi,
Tirunelveli District. ... Respondents/Respondents

Prayer : This Civil Miscellaneous Appeal filed under Section 47 A (10) of the Indian Stamp Act r/w Rule 9 (5) (a) of Tamil Nadu Prevention of Under Valuation of Instrument Rules, to allow the Civil Miscellaneous Appeal by setting aside the order in Paa.Mu.No.27244/N5/2010 on the file of the Chief Controlling Revenue Authority / The Inspector General of

Registration, Chennai, dated 21.12.2012 confirming the order of the Special Deputy Collector (Stamp), Tirunelveli in Na.Ka.C.Pa.No.X1/809/2003, dated 31.03.2010.

For Appellant : Mr.S.Meenakshi Sundaram

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

JUDGMENT

This Civil Miscellaneous Appeal has been preferred as against the order passed by the first respondent, dated 21.12.2012, wherein the first respondent has passed an order in the appeal preferred by the appellant herein.

2. For the sake of convenience and brevity, the parties herein after will be referred to as per their status / ranking in the Tribunal.

3. According to the appellant, he purchased the properties in Panagudi SRO Limit in R.S.Nos.25 and 26 for an extent of 10 acres through Document No.863 of 1996 for valuable consideration of Rs.1,04,000/-. In that document, there is a typographical error and was mentioned as western side south west instead of eastern side south west 10 acres. Therefore, they executed a rectification deed, dated 16.09.1999. In that document, the stamp duty were fixed under Section 47 (B) and thereby, the document was referred to the Stamp Collector under Section 47 A (1) of the Stamps Act and the Stamp Collector fixed the value of sum of Rs.27 per square feet and thereby, the stamp duty fixed as Rs.14,11,824/- and after deduction of the stamp duty, already paid the balance of Rs.13,99,324/- has to be paid by the appellant. Aggrieved by the said order, the appellant / petitioner has preferred this Civil Miscellaneous Appeal.

4. The first respondent after hearing both sides passed an order by confirming the order of the Stamps Collector. As against the same, the present Civil Miscellaneous Appeal has been preferred.

5. The learned Counsel appearing for the appellant / petitioner would contend that the appellant / petitioner have purchased the property in the year 1996 and there was a typographical error. Thereby, they executed a rectification deed on 16.09.1999. For their rectification deed, the appellant need not pay any stamp duty for the value of the property, since already the property was purchased and stamp duty paid for the value of the property and the present deed is only for rectification of four boundaries. Therefore, the question of application of schedule 1 or application of Section 47 A of Indian Stamp Act would not arise. But the third respondent had referred the document for fixing the value of the property to the second respondent Stamp Collector and the second respondent also fixed value of Rs.27 per square feet. As against the said order, the appellant / petitioner has preferred this Civil Miscellaneous Appeal. In the appeal also, the Appellate Authority, namely, the first respondent without considering the nature of document confirming the order of the second respondent. Therefore, the order passed by the respondents are liable to be set aside by allowing this appeal.

6. To support the contention of the learned Counsel appearing for the appellant, he relied upon the judgment reported in ***2010 (1) MLJ 246 [P.Uthamaraj Vs. The District Registrar Chennai, South Chenni 15 and Others]***.

7. The learned Special Government Pleader appearing for the respondents would contend that originally, the document was registered in the year 1996 and thereafter, the appellant herein has executed a rectification deed. At that time, the District Registrar fixed the value of property under Section 47 B of the Stamp Act and the appellant has not come forward to pay the above said amount. Thereby, the Sub-Registrar had referred the document to the Special Collector Stamps under Section 47 A (1) and the Special Collector Stamps also after enquiry, fixed the value as Rs.27 per square feet and fixed the stamp duty and demanded the remaining amount. Aggrieved by the order passed by the Special Collector Stamps, the appellant has filed the appeal before the first respondent and the first respondent also after considering the nature of property and nature of document, confirming the order passed by the second respondent. Therefore, the authorities have passed order only as per the provisions of Stamps Act and based on the guideline value of the property. Therefore, the order passed by the respondents is in order and the present Civil Miscellaneous Appeal is liable to be dismissed.

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

9. It is admitted fact that the main document was registered in the year 1996 by paying necessary stamp duty and thereafter, in the year 1999 (i.e.,) on 16.09.1999, the appellant has registered a document under the name and style of rectification deed by stating that one of the boundary in document was wrongly mentioned and thereby, they executed the rectification deed. The third respondent has fixed the stamp duty based on the value of the property on the date of execution of the document and thereafter, the matter was referred to Stamp Collector and the Stamp Collector also passed order and the same was challenged through appeal. In the appeal also, the first respondent confirmed the order.

10. The main contention of the appellant / petitioner is that the present deed is only a rectification deed and already in the main deed, they paid the entire stamp duty and therefore, the question of 47 A would not arise. In this context, the learned Counsel appearing for the appellant /

petitioner had relied judgment reported in ***2010 (1) MLJ 246 [P.Uthamaraj Vs. The District Registrar Chennai, South Chenni 15 and Others],*** wherein paragraph No.15 has held as follows:

> *"15. At the risk of repetition, it is made clear that if by way of rectification deed, the extent is going to be increased, certainly for the difference in extent, the registering authority is entitled to charge the stamp duty under Schedule I. But, it is not open to the registering authority to reopen the original sale that took place in the year 2003 for the purpose of fresh assessment of value as on the date of rectification of typographical error and by imposing stamp duty on the rectification deed and to seek to recover the difference of stamp duty from the petitioner. Inasmuch as the registering authority at the time of presentation of document for registration in the year 2003 did not raise any objection under Section 47-A of the Act, it is not open to the respondents to raise the dispute regarding valuation now."*

11. On careful perusal of the above judgment, it is clear that in this case of rectification, there is no alteration in the basic nature of the document especially, in the extent and valuation of the property or where the rectification is only in respect of technical aspect such as typographical error or where the rectification is in respect of the extent of property. While the actual measurement remains un-change, there is no question of application of Schedule 1 or application of Section 47 A of the Indian Stamps Act. In the case on hand also, the document is only rectification deed to rectify the mistake, due to typographical error (i.e.,) one of the four boundaries was wrongly mentioned and the same was corrected through this document.

12. In view of the above said judgment and in view of the above said discussions, this Court is of the opinion that the order passed by the respondents by referring the document for fixation of value of the property for rectification deed is not acceptable and the same is not in accordance with law. Therefore, the order passed by the respondents is hereby set aside.

13. In the result, this Civil Miscellaneous Appeal stands allowed and the order passed by the respondents are set aside. The respondents are directed to release the documents within one month from the date of this judgment. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

26.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

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

2.The Special Deputy Collector (Stamp),
Collectorate Campus,
Kokkirakulam,
Tirunelveli District.

3.The Sub Registrar,
Panagudi,
Tirunelveli District.

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

P. DHANABAL, J.

BTR

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