BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.12.2023

PRONOUNCED ON : 08.01.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.568 of 2013

K.Murugesan ... Appellant / Appellant / Document holder

Vs.

1.The Tamilnadu 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,
Trichy.

3.The Sub Registrar,
Melakarur,
Karur. ... Respondents / Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47 A (10) of Indian Stamp Act, to set aside the order passed in Pa.Mu.No.61680 / N4 /08 dated 11.05.2010 on the file of the Tamilnadu Chief Controlling Revenue Authority Cum Inspector General of Registration confirming the order passed by the 2nd respondent / the Special Deputy Collector, (Stamps) Karur in See.Pa.No.2237/03 dated 05.03.2008.

For Appellant : Mr.N.Shanmuga Selvam

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

JUDGMENT

This Civil Miscellaneous Appeal has been directed against the order passed in proceedings bearing Pa.Mu.No.61680 / N4 /08 dated 11.05.2010 on the file of the Tamilnadu Chief Controlling Revenue Authority Cum Inspector General of Registration confirming the order passed by the 2nd respondent / the Special Deputy Collector, (Stamps) Karur in See.Pa.No. 2237/03 dated 05.03.2008.

2. The brief facts of the case are as follows:

The appellant presented a document for registration before the third respondent on 29.10.1997 and the same was registered vide document No. 4511 of 1999. Thereafter, the third respondent, alleging undervaluation of stamp duty, has referred the document to the 2nd respondent for determination of the correct stamp duty payable on the instrument under Section 47(A) of the Stamp Act. On such reference, the 2nd respondent issued notice in Form I, asking for explanation from the appellant as to the deficit stamp duty as the guideline value indicating the value of the property is more than the property in question to the registration for sale. There was no reply fro the petitioner on receipt of Form I notice. Thereafter as per Rule 4(3) of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rule, 1986, the 2nd respondent's Special Tahsildar after informing the petitioner and others made spot inspection on 04.02.2008 and filed the report. After considering the report and other factors in connection with the property in question, the 2nd respondent fixed the value at Rs.10,00,000/- (Rupees Ten Lakhs only) per acre and thereby sent the notice in Form II to the petitioner. The petitioner did not respond even to Form II notice. Following which, the 2nd respondent on the basis of various available records passed the final order in Form III dated 05.03.2008, determining the market value at Rs.10,00,000/- (Rupees Ten Lakhs only) per acre. Having failed to promptly reply the Form I, II and III notices issued by the 2nd respondent, the petitioner preferred a statutory appeal before the 1st respondent challenging the order passed in Form III by the 2nd respondent on 05.03.2008. The 1st respondent on considering the points raised by the petitioner as well as the report obtained from the subordinate officer passed an order confirming the order of the 2nd respondent, by fixing the market value of the property at Rs.63.10 (Rupees Sixty Three and Ten Paisa only) per square feet. Challenging the same, the present Civil Miscellaneous Appeal has been filed.

3.In the instant case, no doubt Form I notice was duly served on the appellant for which the appellant did not give any reply. Similarly, Form II notice was also issued on the appellant even for which the appellant failed to give any reply. This Court in the case of ***Tata Coffee Limited .vs. State of Tamil nadu, rep. By the Secretary to Government, Commercial Taxes & Registration, Government of Tamil Nadu, Fort St. George, Chennai -9 and others reported in 2008 (3) CTC 614 = 2-8-3-L.W.286***, following the decisions rendered by the Honourable Apex Court, laid down parameters for service of Form II notice. It was held that after 1st enquiry is conducted and provisional market value is ascertained, a provisional order has to be passed by the District Collector and the same has to be communicated to the applicant, who is liable to pay the stamp duty. In the said Form II, which has to be issued as per Rule 6, the District Collector has to direct the applicant, who is liable to pay the stamp duty, to lodge his objection or representation against the provisional order regarding the market value and it is open to the District Collector to give sufficient time, as he desires, if any time limit is prescribed. Therefore, from the decision of this Court referred supra, it is clear that before passing the final order, a provisional order has to be passed by the 2nd respondent and it has to be communicated to the appellant enabling him to submit his reply only. Thereafter, only final order has to be passed. In this case, though Form II notice has been issued upon the appellant, the appellant / petitioner miserably failed to respond to both the Form I and II notices.

4. In this case, the 2nd respondent passed final order on 05.03.2008 challenging the said final order in Form III dated 05.03.2008, the appellant

preferred a statutory appeal before the 1st respondent on 17.12.2008. However, the impugned order came to be passed on 11.05.2010 after a lapse of 1 year and 4 months from the date of appeal preferred by the appellant. The plight of the appellant is that the property was purchased by him as early as in the year 1997 and the valuation of the property was Rs.19,500/- (Rupees Nineteen Thousand and Five Hundred only) on 29.10.1997. However, the 1st respondent on the basis of the report of the subordinate officer has fixed the marked value at Rs.10,00,000/- (Rupees Ten Lakhs only) per acre, i.e., Rs.63.10/- (Rupees Sixty Three and Ten Paisa only) per square feet.

5. It is contended by the learned Counsel for the respondent that the 1st respondent after valuing the document executed in the year 1999 and also considering the relevant village record produced by the petitioner re-fixed the market value at Rs.10,00,000/- (Rupees Ten Lakhs only) per acre. It was also contended that during the proceedings to fix the land value, the 1st respondent had taken into consideration the value of lands adopted in the surviving fields of the property. No doubt, the property has been

assessed as agricultural land in view of the sale deed of the year 1999. The report of the Special Tahsildar was not based on assumption and surmises, and he actually inspected the property and fixed the market value in terms of the land value. As per Section 47 (A) of the Indian Stamp Act, 1899, the 2nd respondent is the competent authority to decide the market value independently after inspection. In view of the same, the learned Counsel appearing for the respondent pressed for dismissing the appeal.

6. However, the pertinent question which has to be decided herein is that whether the procedure contemplated under Rule 4 of the Prevention of Undervaluation of the Instrument Rules, 1968 has been properly followed by the 2nd respondent, on receipt of the reference under Section 47(A). A careful perusal of the materials available on record would show that neither the appellant nor the respondents are sure about the date on which such a reference has been made under Section 47 (A) by the registering officer. Even the said date is not available in the impugned order. That apart, the date of order of Form I notice as issued by the 2nd respondent seeking explanation from the appellant is also not placed on record. However, in para 3 of the counter affidavit filed by the respondents, it is pleaded that

final order in Form III was passed on 05.03.2008 by the 2nd respondent. As against the same, the appellant has preferred a statutory appeal before the 1st respondent. The contention of the appellant is that the 1st respondent failed to appreciate that survey No.1026 covered under document No.4511 of 1999 is situated in a remote village and that the guideline value is much less than the value fixed by the respondents. It was also contended by the learned Counsel for the appellant that the land is not near any other important location and it is only an agricultural land.

7. On careful perusal of the impugned order would make it clear that the 1st respondent authority has relied upon the report of the 2nd respondent's Special Tahsildar and the recommendation of the District Registrar. Even though, the land being an agricultural land, since the same situated in Municipality limits of Karur Municipality and since the said property has been incorporated within the 3rd ward, 8th block of Karur Municipality, the 1st respondent had confirmed the valuation as fixed by the 2nd respondent. Though the appellant has preferred this appeal challenging this order no material documents has been produced before this Court or before the 1st respondent appellate authority to substantiate

his contentions. In view of the same, I am not inclined to interfere with the award passed by the Trial Court.

8. Hence, this Civil Miscellaneous Appeal is dismissed. The appellant is directed to pay the necessary Court fee before the Trial Court, if any. There shall be no order as to costs.

08.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

1.The Tamilnadu 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,
Trichy.

Copy to

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

L.VICTORIA GOWRI, J.,

Sml

C.M.A.(MD)No.568 of 2013

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