BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18.03.2024

CORAM:

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

C.M.A(MD)No.377 of 2014
and
M.P(MD)No.1 of 2014

R.Chandramukil ... Appellant/Appellant

Vs.

1.The Chief Controlling Revenue Authority,
Chief Controlling Revenue Authority cum
Registration Department,
Chennai & District.

2.The Special Deputy Collector (Stamp),
5th Floor, Collectorate,
Korampallan,
Tuticorin & District.

3.The Sub Registrar,
Sub Registration Office,
Kovilpatti,
Tuticorin District. ... Respondents/Respondents

Prayer : This Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, to allow this Civil Miscellaneous Appeal and thereby set aside the order, dated 08.10.2013 made in Pa.Ma.No.

5721/N5/2010 on the file of the first respondent, which confirmed the order of the second respondent made in Se.Pa.No.18/2009, dated 13.03.2009.

For Appellant : Mr.B.Rajesh Saravanan

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 in Pa.Ma.No.5721/N5/2010, dated 08.10.2003.

2. According to the appellant, he had purchased the property on 02.12.2008 in Kovilpatti Village on various survey numbers for an extent of 1 acre 17.40 cents and the value of the property was Rs.6,28,351/-. At the time of registration, the appellant paid Rs.50,272/- but the Registering Authority fixed the guideline value per square feet as Rs.97/-. Thereby, the document was sent for valuation under Section 47 A(1) of the Stamps Act to the Stamp Collector by the third respondent herein. Thereafter, the second respondent Special Deputy Collector (Stamp) fixed the rate as Rs.857/- per square meter. As against the same, the appellant has preferred the appeal before the first respondent. The first respondent passed the impugned order, dated 08.10.2013 by fixing Rs.70/- per square feet. As against the said order, the present Civil Miscellaneous Appeal has been preferred by the appellant.

3. The second respondent had filed counter stating that the Special Deputy Collector (Stamp) inspected the property on 07.03.2009 and thereafter, fixed the value as Rs.857/- per square meter. At the time of fixing the amount, enquiry was conducted and notice was issued but the individual did not appear. Therefore, in proceedings S.R.No.18 of 2009, dated 27.04.2009 sent notice to the respondents to remit the balance of stamp duty. Thereafter, the said appeal was preferred before the first respondent and the first respondent also after inspection of the property in person fixed the value of rates Rs.70/- per square feet. At the time, the appellant also admitted that the property is worth about Rs.10,00,000/- per acre. The first appellate authority after taking into consideration of the nature of property and personal inspection, fixed the rate from the records as Rs.70/- per square feet. Therefore, the order passed by the authority is in order and the present appeal is liable to be dismissed.

4. The learned Counsel appearing for the appellant would contend that the property is located near to the burial ground and the same was also admitted by the authority. Therefore, the value mentioned in the respondents are not correct. Even as per the order passed by the first respondent in document No.226 of 2009, the value was fixed as Rs.50/- per square feet. But without giving any reasons, fixed the rate of Rs.70/- per square feet for this document which was registered prior to that document. Therefore, the order passed by the authority is liable to be set aside.

5. The learned Special Government Pleader appearing for the respondents would contend that the guideline value was fixed as Rs.97/- per square feet and the third respondent demanded the stamp duty for that guideline value and thereafter, document was sent to the second respondent under 47 (A) (1) of the Stamp Act and the second respondent, after inspection, fixed the value of Rs.857/- per square meter. As against the same, the appellant has preferred this appeal before the first respondent and the first respondent after taken into account of the documents produced by the parties, fairly fixed a sum of Rs.70/-.

Therefore, the order passed by the first respondent is in order and the present appeal is liable to be dismissed.

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

7. There is no dispute that the appellant has paid a part of stamp duty as Rs.50,272/- and the second respondent also passed order by fixing the rate of Rs.857/- per square meter and thereafter, the appellant filed appeal under Section 47 (A) (5) of the Stamp Act. The first respondent after referring the documents and nature of the property and location of the property, fixed a sum of Rs.70/- by holding that, in the document No.226 of 2009, the lower value was adopted as Rs.50/- and the higher value was fixed at Rs.97/-. In between, the price was fixed as Rs.70/-. The first respondent while passing order, accepted the value of Rs.50/- per square feet for the document registered in the year 2009. But without affording any reasons, he fixed the value between Rs.50/- to Rs.97/- as Rs.70/- and the same is not correct. The first respondent has not given any reasons as to why the value of Rs.50/- fixed which was in the document for the year

2009 has not been considered when the disputed document was registered prior to that. Therefore, the order passed by the first respondent warrants interference and it is appropriate to remand back the case to the first respondent for passing appropriate orders based on the document registered in the year 2009. Therefore, the first respondent has to pass order on merits, by affording reasons to fix the value.

8. In view of the above said observation made by this Court, by affording opportunity to the appellant, the respondents are directed to pass orders on merits and to complete the process within three months from the date of this order. The learned Counsel appearing for the appellant represented that already Rs.1,00,000/- was paid based on the order of this Court, while so the said amount has to be adjusted for the stamp duty. If any excess amount paid by the appellant then he is at liberty to get the excess amount.

9. With the above said observations, this Civil Miscellaneous Appeal stands allowed and the order passed by the first respondent is set aside and the first respondent is directed to pass fresh order within three months from the date of receipt of copy of the order. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

18.03.2024

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

To

1.The Chief Controlling Revenue Authority,
Chief Controlling Revenue Authority cum
Registration Department,
Chennai & District.

2.The Special Deputy Collector (Stamp),
5th Floor, Collectorate,
Korampallan,
Tuticorin & District.

3.The Sub Registrar,
Sub Registration Office,
Kovilpatti,
Tuticorin District.

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

P. DHANABAL, J.

BTR

C.M.A(MD)No.377 of 2014

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