IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 08.01.2025	*Delivered on 21.03.2025*

CORAM

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P.DHANABAL

WA.No.2925/2024 & CMP.Nos.21604/2024

1.The State of Tamil Nadu
rep.by its Secretary
Commercial Taxes & Registration
Department, Fort St George
Chennai 600 009.

2.The Inspector General of Registration,
O/o.The Inspector General of Registration,
Santhome, Chennai 600 004.

3.The Sub Registrar
O/o.The Sub Registrar, Adyar
No.51, Kamaraj Avenue, 2nd Street
Adyar, Chennai 600020. ... Appellants / Respondents 1 to 3

Vs.

1.R.K.Jalan

2.J.K.Iron & Steels Manufacturing Co.,
rep.by its Partner B.K.Jalan
having office at No.218, Linghi
Chetty Street, Chennai 600 001. ... Respondents / Writ Petitioners

Prayer : Writ Appeal filed under Clause 15 of Letters Patent against the order dated 15.04.2024 in WP.No.9123/2024.

For Appellants : Mr.B.Vijay, AGP
For Respondents : Mr.M.K.Kabir, Senior counsel for Mr.G.Krishna Kumar

JUDGMENT

S.S.SUNDAR, J.,

(1)This appeal is directed against the order of the learned Single Judge dated 15.04.2024 in WP.No.9123/2024 allowing the writ petition filed by the respondents to quash the proceedings of the 3rd appellant, who had refused to register the Sale Deed dated 09.11.2023 and to direct the 3rd appellant to register the Deed of Conveyance pursuant to the decree obtained for specific performance by the Civil Courts.

(2)Brief facts that are necessary for the disposal of this appeal are as follows:-

(3)Pursuant to a decree in the suit in OS.No.6686/1996 for specific performance and the Sale Deed executed by the Court in execution of decree, the writ petitioners presented the document for registration. However, the same was refused on the ground that the stamp duty has not been paid on the basis of market value for the property as on the date when the document was presented for registration. However, the learned Judge allowed the writ petition after referring the judgment of this Court made in CMA.Nos.168 and 169 of 2016 dated 22.08.2017 in ***G.Mary Chellathal and Another Vs. Tamil Nadu Inspector General of Registration & Principal Revenue Authority and 2 others.*** As against the same, the appeal is preferred by the appellants.

(4)Relying upon a Two Member Bench Judgment of the Hon'ble Supreme Court in the case of ***State of Rajasthan and Others Vs. Khandaka Jain Jewellers [2007 [14] SCC 339 : AIR 2008 SC 509]*** and another judgment in the case of ***Residents' Welfare Association, Noida Vs. State of U.P.***

and Others [2009 [14] SCC 716 : AIR OnLine 2019 All 1713], the learned Judge observed that conflicting views have been expressed by the Hon'ble Supreme Court in those two judgments. Posing himself a question, which of the two judgments of Hon'ble Supreme Court should be followed, the learned Single Judge, taking guidance from another judgment of himself, held that the judgment in ***Residents' Welfare Association, Noida's case [cited supra]*** should be preferred as the law was more elaborately and accurably discussed by the Hon'ble Supreme Court in the latter judgment. Therefore, the writ petition was allowed by holding that the stamp duty should be paid based on the contract entered into between parties. While allowing the writ petition, the learned Judge directed the Sub Registrar to register the document. Aggrieved by the same, the official respondents have preferred the above writ appeal on various grounds.

(5)This Court heard the submissions of Mr.B.Vijay, learned Additional Government Pleader appearing for the appellants and Mr.M.K.Kabir, learned Senior counsel appearing for the respondents and also perused the records.

(6)Mr.B.Vijay, learned Additional Government Pleader appearing for the appellants, relied upon a few judgments of Hon'ble Supreme Court and this Court, taking a consistent view that stamp duty payable on the Deed of Conveyance should be on the basis of the market value when the document was executed and presented for registration. In the case of ***Khandaka Jain Jewellers' case [cited supra]***, the Hon'ble Supreme Court has held that the date of presentation of document of sale alone should be taken into account while fixing the market value. The Hon'ble Supreme Court also held that the Stamp Act, being the fiscal state of statute, should be interpreted in favour of revenue. The same principle was reiterated by Hon'ble Supreme Court even in the case of ***State of Punjab and Others Vs. Mohabir Singh and Others [1996 [1] SCC 609].***

(7)Referring to Section 47-A of the Stamp Act and other relevant provisions, the Hon'ble Supreme Court has held as follows:-

> *"**4.** Sub-section (1) of Section 47-A empowers the Registering Officer, while registering any instrument*

relating to the transfer of any property, if he has reasons to believe that the value of the property or consideration, as the case may be, has not been truly set forth in the instrument, after registering such instrument, to refer the same to the Collector for determination of the value of the property or the consideration, as the case may be, and the proper duty payable thereon. It would, therefore, be clear that the Registering Authority has to satisfy himself that value of the property or the consideration for it has not been truly set forth in the instrument. He may make a reference to the Collector in accordance with the provisions of sub-section (2) of Section 47-A. Before making reference, he is required to register the document and he is not empowered to withhold the registration. Such a registration, of course, will be subject to the determination of the true market value prevailing in the locality though the value mentioned in the instrument for such registration under sub-section (1) of Section 47-A was not conclusive.

***5.** The guidelines provided by the State would only serve as prima facie material available before the Registering Authority to alert him regarding the value.*

It is common knowledge that the value of the property varies from place to place or even from locality to locality in the same place. No absolute higher or minimum value can be predetermined. It would depend on prevailing prices in the locality in which the land covered by the instrument is situated. It will be only on objective satisfaction that the Authority has to reach a reasonable belief that the instrument relating to the transfer of property has not been truly set forth or valued or consideration mentioned when it is presented for registration. The ultimate decision would be with the Collector subject to the decision on an appeal before the District Court as provided under sub-section (4) of Section 47-A.

***6.** It would thus be seen that the aforesaid guidelines would inhibit the Registering Authority to exercise his quasi-judicial satisfaction of the true value of the property or consideration reflected in the instrument presented before him for registration. The statutory language clearly indicates that as and when such an instrument is presented for registration, the Sub-Registrar is required to satisfy himself, before registering the document, whether the true price is* *reflected in the instrument as it prevails in the locality. If he is so satisfied, he registers the document. If he is not satisfied that the market value or the consideration has been truly set forth in the instrument, subject to his making reference under sub-section (1) of Section 47-A, he registers the document. Thereafter, he should make a reference to the Collector for action under sub-sections (2) and (3) of Section 47-A. Accordingly, we hold that the offending instructions are not consistent with sub-section (1) of Section 47-A. It would, therefore, be open to the State Government to revise its guidelines and issue proper directions consistent with the law. "*

(8)Recently, the Hon'ble Supreme Court in the case of ***Shanti Bhushan [D] Through LR and Others V. State of U.P. And Others [2023 [6] SCR 513]***, while referring to and interpreting Section 17 and Article 23 of Schedule I of Stamp Act, categorically held that the stamp duty payable on a conveyance will be as per the market value of the subject property on the date of conveyance. In paragraph No.20, it has been held as follows:-

"20.Hence, when a sale deed is presented for registration, the registering authority must ascertain the correct market value of the property subject matter of

the document on the date of execution of the document. The stamp duty is payable on the basis of such market value and not on the consideration mentioned in the document. If the consideration mentioned is more than the market value, the stamp duty will be payable on the consideration shown. Moreover, the market value mentioned in the agreement for sale or the market value prevailing on the date on which the bargain was struck is of no relevance for deciding the stamp duty. The relevant market value is the one which prevails on the date of execution of the conveyance. Therefore, we have no manner of doubt that the appellants were under an obligation to pay stamp duty calculated on the market value of the sale deed property on the date of execution of the sale deed."

(9)A Learned Single Judge of this Court in the case of ***K.Karunakaran Chettiar Vs. The Inspector General of Registration and Others [WP.No.5074/2024 order dated 17.04.2024]*** relying upon the judgments of Hon'ble Supreme Court in the case of ***Shanti Bhushan [D] Through LR and Others V. State of U.P. And Others [2023 [6] SCR 513]***, and ***Khandaka Jain Jewellers' case [cited supra]***, has held in paragraph

No.11 as follows:-

> *"11.In the light of the law settled by the Hon'ble Supreme Court in **Shanti Bhushan's case [cited supra],** the stamp duty is payable on the market value of the subject property and the relevant market value is the one which prevails on the date of execution of the document and not on the consideration mentioned in the document."*

(10)Section 17 of Indian Stamp Act mandates that all instruments chargeable to duty and executed by any person in India shall be stamped before or at the time of registration. The State is not a party to any agreement or a contract so as to accept valuation. When the sale deed is executed pursuant to the registered sale agreement which is enforceable in law, the execution of the document may be delayed due to pendency of a suit for specific performance. It may even take 20 or 30 years for a person to get a decree for specific performance. May be after 20 or 30 years, sometimes, a document is executed pursuant to getting orders from the Executing Court. The legislative intend is to collect stamp duty on the market value when the document is presented for registration.

(11)It is well settled that an Agreement of Sale does not create any right in any immovable property and there is transfer of title only when the Sale

Deed is registered. Therefore, the order of the learned Single Judge allowing the writ petition, cannot be sustained.

(12)In the result, the writ appeal stands **allowed and the order of the learned Single Judge dated 15.04.2024 made in WP.No.9123/2024 is set aside.** The writ petition in WP.No.9123/2024 is **dismissed.**

(13)When the Sub Registrar is of the opinion that the document is undervalued or the market value is not set forth properly in the instrument, it is open to the Sub Registrar, the 3rd appellant herein to collect stamp duty on the value of property.

(14)Since the market value as on date is admittedly above the value set forth in the instrument, the Sub Registrar is directed to initiate proceedings under Section 47-A of the Indian Stamp Act. In case, the Sub Registrar has already fixed the guideline value recently, the same can also be accepted if the Sub Registrar is satisfied that guideline value reflects the correct market value as on the date of presentation of the document for registration. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [P.D.B., J.]
21.03.2025

AP
Index : Yes
Internet : Yes
Neutral Citation: Yes

To

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O/o.The Inspector General of Registration,
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No.51, Kamaraj Avenue, 2nd Street
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and
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