
(2008) 01 MAD CK 0122

In the Madras High Court

Case No : C.R.P (NPD) No. 28 of 2008 and M.P. No. 1 of 2008

C. Selvaraj

APPELLANT

Vs

K. Vijayalakshmi

RESPONDENT

Date of Decision : 05-01-2008

Acts Referred:

Citation : (2008) 01 MAD CK 0122

Hon'ble Judges : A.C. Arumugaperumal Adityan, J

Bench : Single Bench

Advocate : P. Satheesh Kumar, for the Appellant;

Final Decision : Allowed

Judgement

A.C. Arumugaperumal Adityan, J.—The order passed by the Executing Court in E.P. No. 92 of 2003 in O.S. No. 184 of 2002 on the file

of the Subordinate Court, Arni is under challenge in this revision. The learned Subordinate Judge, Arni had directed the revision petitioner herein,

who is a decree holder in O.S. No. 184 of 2002 to deposit stamp papers to the value of Rs. 42160/- for drafting the sale deed.

2. The grievance of the revision petitioner is that without assigning any reason, the learned Subordinate Judge, Arni has directed the revision

petitioner to deposit the stamp papers to the value of Rs. 42160/- wherein admittedly the value of the property as per the plaint is Rs. 1,50,000/-.

The learned Counsel would contend that there is absolutely no evidence on record to show that the petitioner has under valued the suit property.

Relying on a decision reported in S.P. Padmavathi Vs. State of Tamil Nadu and Others, the learned Counsel would contend that in the absence of

any specific allegation of undervaluation or lack of bonafides, the mere fact that

there is a time gap between the agreement of sale and the execution of the document, it is not fair on the Registering Officer to direct the parties to pay the stamp duty on the basis of the prevailing value of the property on the date of the execution of the sale deed. The exact observation in the above said dictum runs as follows:

Therefore, we are of the view that in the case of instrument of conveyance executed pursuant to the decree for specific performance passed by the Civil Court, in which there is no allegation of undervaluation or lack of bonafides, the mere fact that there is a time gap between the agreement of sale and the execution of the document, is not sufficient to the Registering Officer to invoke his power u/s 47-A of the Act, unless there are reasons to believe that there is an attempt on the part of the parties to the instrument to deliberately undervalue the subject of transfer with a view to evade payment of proper stamp duty.

Under such circumstances, I am of the view that the order passed by the learned Subordinate Judge, Arni in E.P. No. 92 of 2003 in O.S. No. 184 of 2002 is liable to be set aside.

3. In fine, the civil revision petition is allowed and the order passed in E.P. No. 92 of 2003 in O.S. No. 184 of 2002 on the file of the Court of Subordinate Judge, Arni is set aside. The learned Subordinate Judge, Arni is directed to calculate the value of the stamp papers on the basis of the value for the suit property stated in the plaint and then to execute the sale deed in accordance with law, within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, connected M.P. No. 1 of 2008 is closed.