(2012) 02 MAD CK 0009

In the Madras High Court

Case No : C.M.A. No. 2716 of 2005 and C.M.P. No. 14092 of 2005

Kumarasamy APPELLANT

Vs

The Principal Revenue Controlling Officer and Inspector General of Registration, Santhome, Chennai-28 and The Special Deputy Collector (Stamps), Coimbatore RESPONDENT

Date of Decision : 15-02-2012

Acts Referred:

Citation : (2012) 3 CTC 519

Hon'ble Judges : Aruna Jagadeesan, J

Bench : Single Bench

Advocate : N. Manokaran, for the Appellant; Saraswathi Sivaraman Iyer, Government Advocate (CS), for the Respondent

Final Decision : Dismissed

Judgement

Aruna Jagadeesan, J.—This Appeal has been filed by the land owner against the order dated 12.1.2004 (signed on 28.1.2004) made in

No. 55519/N2/2003 passed by the learned Principal Revenue Controlling Officer & Inspector General of Registration, Santhome, Chennai,

confirming the order dated 27.5.2002 made in Mu. Pa. No. 885/1999-G passed by the Special Deputy Collector (Stamps), Coimbatore. The

Appellant had purchased Punja land to an extent of 0.47 cents in S.F. No. 426/2, Nambiyur Village, Gobichettipalayam Taluk under the registered

Sale Deed dated 11.4.1996 in Doc. No. 323/96 for a sale consideration of Rs. 79,000/-.

2. The Sale Deed has been duly registered as Doc. No. 323/96 on the file of Sub-Registrar, Nambiyur Village, Erode District. According to the

Appellant, the entire extent of the property was a Dry and Manavari land. The

Second Respondent/the Special Deputy Collector (Stamps),

Coimbatore in his proceedings dated 27.5.2002 on the premise that the document has not reflected the correct value, fixed the market value at Rs.

3,53,250/- that is Rs. 2,50,000/- per acre and demanded Stamp duty of Rs. 42,394/-. The Appellant was directed to pay a deficit Stamp duty of

Rs. 27,894/- after adjusting Rs. 14,500/- paid by the Appellant as Stamp duty on the document.

3. Against the said order, the Appellant filed the Appeal before the Inspector General of Registration-cum-Principal Revenue Controlling

Officer/the First Respondent herein.

4. The First Respondent, however, fixed the market value at ''5,50,000/- per acre on the ground that the said land is a cultivable land. The

impugned order further indicated that the guideline value has been into account.

5. Aggrieved by the said fixation, the Appellant has filed the present Appeal.

6. Mr. N. Manokaran, the learned Counsel for the Appellant contended that the land covered under the Sale Deed was only Dry and Manavari

land, which is revealed from the Sale Deed itself and the orders passed by the Respondent in fixing the land value on the basis of the guideline

value and on the premise that the lands were cultivable is unsustainable in law. The learned Counsel relied upon the decision reported in R.V.

Refractories Vs. District Revenue officer (Stamps) Collectorate and Chief Revenue Officer and Inspector General of Registration, in support of his

contention that the determination of market value cannot be in realm of conjectures or surmises, particularly, it should not merely be based on the

guideline value. It is also contended by the learned Counsel that the Stamp duty in respect of the instrument of sale will have to be determined on

the basis of market value of the property at the time when the document is tendered for registration and in support of his contention placed reliance

on the decision of State of U.P. and Others Vs. Ambrish Tandon and Another,

7. He also placed reliance on the decision rendered by the Hon''ble Supreme Court in the State of Rajasthan and Others Vs. Khandaka Jain

Jewellers, , wherein it is held by the Apex Court that the Stamp duty is payable on the market value of the property as on date of execution of Sale

Deed i.e., at the time of documents tendered for registration.

8. Mrs. Saraswathi Sivarama Iyer, the learned Government Advocate (CS) referred to the order of the Respondents and submitted that taking into

consideration that maize was grown at the time when inspection was made and also taking into account in and around the properties and report of

the Special Deputy Collector (Stamps), Coimbatore, the First Respondent has fixed the market value of the land at Rs. 5,50,000/- per acre and

the same does not call for any interference.

9. Heard the submission made on either side and perused the material on record.

10. Admittedly, the land was purchased by the Appellant on 11.4.1996 and the impugned order was passed on 27.5.2002. The First Respondent

has stated in the impugned order that the land was cultivable and maize was grown at the time of inspection. But however, on perusal of the Sale

Deed, it is seen that it is only a Punja land i.e., Dry and Manavary land. The opinion given by the Special Deputy Collector, (Stamps), Coimbatore

is that it is uneven land.

11. Rules 3(3) & 3(4) to the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 deals with market value and Rule 5

deals with determination of market value and it prescribes certain procedure to be followed for determination of market value of the property

sought to be registered. In this case, the authorities want to fix a different value then what has been set out in the document in terms of Rule 3. If the

valuation stated in the document is found to be not truly set forth and the authorities had reason to believe that it does not reflect the correct market

value, necessarily they have to fall upon Rule 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 and make an

assessment in terms of Rule 5 and that should form the basis of the order demanding higher Stamp duty. The determination of the market value

cannot be in the realm of conjectures or surmises particularly it should not merely based on the guideline value.

12. In the present case, except the alleged visit made by the authority and the reference to the guideline value, there is no other material to support

the case of undervaluation as suggested by the Respondents. The Explanation to Rule 3 clearly indicates that the entries made in the guideline

Register is not a substitute for market price. Therefore, the First Respondent cannot solely depend upon the guideline value to determine the market value.

13. It is for the Respondents to show that there is reasonable belief on the part of the authorities to come to a conclusion that the market value of

the property sought to be registered has not been truly set forth, in other words the Registration Department is of the view that true market value

has not been set forth. For that they have to establish that the value shown in the document is not the market price and there should be sufficient

acceptable reason to substantiate the same. In the present case, except referring to the guideline value which is not a final authority on market value

and it is a cultivable land, no other material is placed for coming to the conclusion that the market value stated in the document is not a correct one.

14. Even according to the Special Deputy Collector (Stamps), Coimbatore, it is not an even land. Merely because maize was grown in the land, it

cannot be taken as a cultivable and wet land. Therefore, based on such assumption, the market value cannot be fixed. In view of the same, this

Court is of the view that the Respondents have not made out a case as against the Appellant that the market value of the property has not been

truly set forth and they had reason to believe so. In such view of the matter, the demand made by the First Respondent for higher Stamp duty

cannot be sustained. In the result, the Civil Miscellaneous Appeal is allowed and the order passed by the First Respondent herein confirming the

order dated 27.5.2002 made in Mu. Pa. 885/1999-G passed by the Special Deputy Collector, (Stamps), Coimbatore is hereby set aside and the

authorities are directed to release the registered Sale Deed to the Appellant herein. Consequently, connected Miscellaneous Petition is also closed.

There shall be no order as to costs.

