(2013) 11 MAD CK 0251

In the Madras High Court

Case No : C.M.A.No.1097 of 2009

Thiraichermadanthai APPELLANT

Vs

Inspector General of Registration/Chief Revenue Controlling Authority, Tamil Nadu RESPONDENT

Date of Decision : 04-11-2013

Acts Referred:

Citation : (2014) 1 MadWN(Civil) 371

Hon'ble Judges : Mrs. S.Vimala, J.

Bench : Single Bench

Advocate : Mr. R.N. Amarnath, Advocate, for the Appellant; Ms. M. Jayasree, Advocate, for the Respondents

Final Decision : Allowed

Judgement

Mrs. S.Vimala, J.—Whether a reference made by the Registering Authority, after three years of the registration of document, i.e., on 29.07.2003, for the purpose of adjudication of market value of the property to the Collector under Sub-section (1) of Section 47-A of The Indian Stamp Act, 1899, is valid in law and it is not barred by limitation?

1.1. When sub-section (3) of Section 47-A of the said Act provides outer limit of two years from the date of registration of the instrument for exercising suo motu powers, whether the reference made by the Registering Authority, after three years from the date of registration of the instrument, could be considered as within time?

1.2. In the absence of any reasons having been recorded by the Registering Authority to show that he had entertained any reasonable doubt that the true market value of the property has not been truly set-forth in the instrument, whether the reference is valid?

These issues arise for consideration in this appeal.

2. The appellant purchased an extent of 2970 sq. ft., of land, comprised in S.F.No.280/1 in Surankottai Group Village, Ramanathapuram District, for a total sale consideration of Rs.20,000/-, which was registered in Document No.1030/2000 on 10.07.2000.

2.1. The appellant received a notice, dated 29.07.2003, from the Special Deputy Collector (Stamps), stating that the appellant is liable to pay a sum of Rs.16,394/- as additional stamp duty towards payment of actual market value of the property. The Special Deputy Collector (Stamps), by the order, dated 24.11.2003, fixed the market value of the property at Rs.1,57,410/-, thereby determining the market value at Rs.53/- per sq.ft., The Inspector General of Registration (the first respondent) confirmed the order passed by the Deputy Collector (Stamps). This order is under challenge in this appeal.

3. The main contentions of the learned counsel for the appellant are, (i) the Registering Authority, registered the document without any reservation and did not entertain any reasonable doubt that the real market value has not been reflected in the document, before completing the registration and therefore, the reference itself is incompetent; (ii) in any event, the reference could be made immediately after the registration or so sooner the registration is completed and at any rate, within three weeks from the date of completion of registration of document; (iii) the reference made after three weeks from the date of registration of document is barred by time; (iv) factually also, the order passed cannot be sustained, as the guideline value, stated to be Rs.1,57,420/-, is an incorrect value.

3.1. Contending that, the condition precedent for making a reference is that, there must be reasons for the Registering Authority to believe that market value of the property has not been truly set-forth in the document presented for registration and that, in the absence of reasons, having been recorded for such relief, the reference is not valid, the learned counsel for the appellant relied upon the decision reported in 1999-2-L.W.231 (M.Ponnusamy and others v. The District Collector, Erode and others). It would be relevant to extract paragraphs 73 and 74, which reads thus:-

"73. The Registering Authority did not entertain any doubt, nor he had any reason to believe that the market value of the property had not been set out truly. Having completed registration, as an after thought, it is not open to the Registering Authority to refer the matter to the Collector in terms of Section 47-A of the Indian Stamp Act and at any rate after two years.

74. The action of the Registering Authority is arbitrary and he has no jurisdiction or authority to make a reference, as in the present case, he did not entertain any doubt nor he had any reason to believe that the market value of the property, which is the subject matter of instruments of conveyance, has not been truly set forth in the instruments and he had obviously accepted the market value set forth in the instruments and completed the registration without any doubt and

without entertaining any reasonable belief as prescribed under Sub-section (1) of Section 47-A of said Act."

3.2. The contention that the reference is barred by limitation is also supported by the same decision, cited supra, in paragraph 91, which reads thus:-

"91. As the instruments have been registered without any reservation by the Registering Authority and as the Registering Authority had not entertained any reasonable belief with respect to the valuation of the property dealt under the instruments in question, as prescribed by sub-section (1) of Section 47-A before completing the registration, there cannot be a subsequent reference, much less after two years from the date of completion of registration. This Court hastens to add that a reference should be made immediately after registration or so sooner the registration is completed and at any rate within three weeks from the date of completion of registration of document to refer the instrument to the Collector under Sub-Section (1) of Sec. 47-A of the said Act, besides sending a communication to the person, who is liable to pay the stamp duty on the instrument in question."

4. The legal position indicated above will show that the reference made is without jurisdiction, factually as well as legally. In the result, Civil Miscellaneous Appeal is allowed. No costs.