(2016) 07 MAD CK 0019

In the Madras High Court

Case No : C.M.A. No. 2959 of 2005 & C.M.P. No. 15456 of 2005

T.N.C. Venkatrangan APPELLANT

Vs

Chief Controlling Revenue Authority (Inspector General of Registration) RESPONDENT

Date of Decision : 21-07-2016

Acts Referred:

Citation : (2016) 3 MadWN(Civil) 508

Hon'ble Judges : T. Mathivanan, J.

Bench : Single Bench

Advocate : T.V. Krishnamachari, Advocate, for the Appellant; T. Jayaramaraj, Government Advocate(CS), for the Respondent

Final Decision : Disposed Off

Judgement

T. Mathivanan, J.—This Memorandum of Civil Miscellaneous Appeal is directed against the Order of the Respondent dated 18.7.2005 and made in his Proceedings No. 29629/NS/c1/2002.

2. Heard Mr. T.V. Krishnamachari, learned Senior Counsel appearing for the Appellant and Mr. T. Jayaramaraj, learned Government Advocate for the Respondent.

3. The Appellant T.N.C. Venkatrangan had purchased a landed property along with a building under the Sale Deed dated 1.3.2001 from one Mrs. Alamelu Ammal. The land measures two grounds and 1348 sq.ft. and the buildings thereon bearing New No. 169 (Old No. 62) and situated at Habibullah Road, T. Nagar, Chennai-600 017 comprised in R.S. No. 28 previous T.S. No. 4677 & 4719, present T.S. No.8059 of Block No. 107 of T. Nagar Division, Mambalam Guindy Taluk, covered by Layout Nos.88/49, 69/50 & 82/56. Plot No. 1.

4. The building which stood therein was aged about 60 years measuring 1990 sq.ft in the ground floor and 2095 sq.ft in the first floor and the second floor and situated within the Registration District of Chennai South and the Registration

Sub-District of Thyagaraya Nagar. It appears from the Sale Deed that the value of the land was assessed at Rs. 88,83,000 and the value of the building was assessed at Rs. 8,17,000 and the total Sale consideration was fixed at Rs. 97,00,000.

5. In this connection, the Sub-Registrar, Chennai South had given a Report dated 12.6.2002 saying that as per the Guideline value, per square feet was assessed at Rs. 1865 under Section 47-A(1) of the Indian Stamp Act. It was determined at Rs. 1530 per sq.ft i.e. one ground was valued at Rs. 3,67,200. The report of the Sub-Registrar also reveals that as per the impugned Sale Deed two grounds and 1348 sq.ft was purchased. Since the land was located in a developed area, based on an enquiry it was put to understand that one ground would fetch more than Rs. 50,00,000. District Registrar had sent the document to Special Deputy Collector (Stamps) for determining the correct market value as per Section 47-A of the Indian Stamp Act. On receipt of the impugned document along with the Report, the Inspector General of Registration through his Letter No. 29629/ N3/2002 dated 22.1.2003 had issued a Show-Cause Notice under Section 47-A(6) to the Appellant to show-cause as to why the value of the deficit Stamp should not be collected from him. The Appellant was also directed to appear for enquiry on 3.2.2003.

6. On receipt of the Show-Cause Notice, the Appellant had issued a reply dated 31.1.2003 wherein he had stated that the instrument had been properly stamped as per the Certificate D. Dis No.145 of 2001 dated 8.6.2001 issued by the Special Deputy Collector (Stamps), Chennai-600 001. It is also revealed from the above said reply that the fixation of guideline value of Rs. 1,530 per sq.ft. was already accepted by the Department of Registration and the difference duty of Rs. 1,25,307 was admittedly collected from the Appellant in terms of the Certificate dated 8.6.2001. According to the Appellant, there seemed to be no provision of law for another revision of Guideline value by the Registrar, South Chennai after the determination of the same by the Special Deputy Collector (Stamps) under sub-rule (1) of Rule 7 of Tamil Nadu Stamp (Prevention of Under valuation of Instrument) Rules, 1968.

7. The Appellant had received another Letter from the Inspector General of Registration dated 1.7.2003 in Letter No.29629/No.3/2003, wherein it is stated that C.C.R.A may suo moto call for and examine an Order passed under sub-section (2) or sub-section (3) and if such order is prejudicial to the interest of Revenue, he may make such inquiry or cause such inquiry to be made and subject to the provisions of the Act, he may initiate proceedings to revise, modify or set aside such order and may pass such Order as be thinks fit. In this Letter it is stated that as per the Guideline value per square feet of the land was fixed at Rs. 1,865, but as per the impugned document a sum of Rs. 1,444 was determined per square feet of land. Subsequently, the Deputy Collector (Stamps) had determined the value at Rs. 1,530.

8. Since the value fixed by the Registration Department was on the higher side

when compared to the Guideline value, it was deserved to be suo moto examined by the Chief Controlling Revenue Authority (Inspector General of Registration). Therefore, the Appellant was called to appear for enquiry on 28.7.2013 at 02.30 p.m. Ultimately, the Chief Controlling Revenue Authority (Inspector General of Registration) had passed an Order on is 18.7.2005 in his Proceedings No. 29629/ N5/c1/2002, dated 18.7.2005 determining the Guideline value at 1,865 per sq.ft. Therefore, the Appellant was directed to pay the deficit Stamp value to the extent of Rs. 2,67,748 along with the deficit Registration fees at Rs. 20,600. If the above said deficit Stamp duty along with the deficit Registration fees was not paid within 60 days, the interest at the rate of 2% would be added from the 61st day. This Order has been challenged in this Appeal.

9. As indicated by Mr. T.V. Krishnamachari, the learned Senior Counsel, already the Special Deputy Collector (Stamps), Chennai-1 had held that the instrument had been properly stamped as per the Certificate in D. Dis. No. 145/2001 dated 8.6.2001. Already a sum of Rs. 1530 per sq.ft. in respect of the property purchased under the impugned document was determined by the Registration Department. Accordingly, the difference duty of Rs. 1,25,307 was admittedly collected from the Appellant as per the Certificate in D. Dis. No. 145 of 2001 dated 8.6.2001.

10. Further, as argued by Mr. T.V. Krishnamachari, learned Senior Counsel, there is no specific provision in the Indian Stamp Act to take another revision of the Guideline value by the Registrar of South Chennai after the determination of the same by the Special Deputy Collector (Stamps) under sub-rule (1) of Rule 7 of Tamil Nadu Stamp (Prevention of Under Valuation of Instrument) Rules, 1968.

11. Insofar as this appeal is concerned, the Inspector of Registration, Chennai without any basis, has stated in his Letter dated 22.1.2003 that the property purchased under the impugned instrument would fetch more than Rs. 50,00,000 per ground. This Court is able to find from the above said Letter that though a sum of Rs. 1,444 was determined per sq.ft. in respect of the property purchased under the impugned document, the guideline value was fixed at Rs. 1,865. However, after sending the document to the Deputy Collector (Stamps) as contemplated under Section 47-A(1), Indian Stamp Act, it was determined by him at Rs. 1,530 per sq.ft and accordingly, the deficit value of the stamp at Rs. 1,25,307 was collected on 8.6.2001. When such being the case, the value determined by the Chief Controlling Revenue Authority (Inspector General of Registration at Rs. 1,869 per sq.ft. once again claiming a sum of Rs. 2,67,748 towards the deficit Stamp value along with a sum of Rs. 20,000 towards the Registration Fee seems to be without any basis and liable to be set aside.

12. Mr. T.V. Krishnamachari, learned Senior Counsel, has also submitted that the Appellant had submitted his objection to the Report saying that the determination of Chief controlling Revenue Authority (Inspector General of Registration) was vague and another Report which was filed by the Respondent was not sustainable under Section 47-A(6) of the Act. He has also argued that

the Sale Deed registered as Document No. 1902 of 2007 would clearly prove that the Sale consideration was Rs. 12,10,000 for 1000 sq.ft. of undivided share of land, which means the consideration fixed by the willing seller and willing buyer was only Rs. 1,210 per sq.ft. He has also added that but for the purpose of Stamp duty, the Registrar had collected Stamp duty on Rs. 19,13,000, would could not be taken as the market value. He has also maintained that fixing of market value at Rs. 1,865 per sq.ft. was arbitrary and without any basis and it was not known as to how the Stamp duty of Rs. 2,67,748 was arrived at.

13. This Court, on considering the submissions made by Mr. T.V. Krishnamachari, has endorsed his view and this Court also finds that the fixation of market value at Rs. 1,865 per sq.ft. by suo moto review is absolutely baseless and seems to be arbitrary, which is liable to be set aside.

14. It is significant to note here that at the time of admission of the Appeal, this Court had granted an Interim Stay without prejudice to the contentions of the Appellant/Petitioner directing him to pay the demanded amount within a period of two weeks from the date of passing of the Order. It was also made it clear that if the Appellant/Petitioner succeeded, the demanded amount should be refunded to the Appellant with 6% interest by the State Government. As per the direction of this Court, the Appellant had also deposited the demanded amount of Rs. 2,67,748. Since this Court comes to the conclusion that the Appeal is deserved to be allowed and the impugned Order of the Respondent is also deserved to be set aside, the deposited amount of Rs. 2,67,748 shall have to be refunded by the Government with Interest at the rate of 6% per annum.

15. In view of the above fact, this Appeal is allowed and the impugned proceedings of the Respondent in Proceedings No.29629/N5/c1/2002, dated 18.7.2005 is set aside. It is also relevant to note here that already the Special Deputy Collector (Stamps), Chennai had determined the value of the property at Rs. 1530 per sq.ft and the Appellant has also paid the difference duty of Rs. 1,25,307 and in this connection a Certificate was also issued in D. Dis. No. 145 of 2001 dated 8.6.2001 by the Special Deputy Collector (Stamps), Chennai. Therefore, this Court finds that no loss is caused to the exchequer of the State. The Respondent is directed refund the deposited amount of Rs. 2,67,748 along with Interest at 6% to the Appellant within two weeks from the date of receipt of a copy of this Order. There shall be no Order as to Costs. Consequently, the connected Miscellaneous Petition is closed.