

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.75-76 of 2025

(@Petitions for Special Leave to Appeal (C) Nos.18676-18677/2018)

CHIEF REVENUE CONTROLLING OFFICER CUM
INSPECTOR GENERAL OF REGISTRATION, & ORS.

Appellant(s)

VERSUS

P. BABU

Respondent(s)

O R D E R

1. Leave granted.

2. These appeals are at the instance of the Chief Revenue Controlling Officer-cum-the-Inspector General of Registration and two other Revenue Officers, seeking to challenge the judgment and order passed by the High Court of Judicature at Madras dated 2-9-2015 in CMA Nos.973/2010 & 2534/2012 respectively by which the High Court allowed the civil miscellaneous appeals filed by the respondent - herein under Section 47-A(10) of the Indian Stamp Act, 1899 (for short, "the Stamp Act") and thereby quashed and set aside the order passed by the Chief Revenue Controlling Officer-cum-the-Inspector General of Registration with respect to the stamp valuation.

3. The subject matter of this litigation is the valuation shown in the two Sale Deeds registered as DOC No.487/02 dated 5-9-2002 and 488/02 dated 2-9-2000 respectively.

4. The respondent - herein is the purchaser. He got the two sale deeds executed through the original owner of the property in

question. The market value of the entire property covered in both the sale deeds is Rs.1,20,000/- and Rs.1,30,000/- respectively. It appears that the Joint Sub-Registrar, Tindivanam on receipt of the two registered sale deeds declined to release the documents on the premise that the sale consideration shown in the two sale deeds was under-valued.

5. The matter was accordingly referred by the Joint Sub-Registrar to the Special Deputy Collector (Stamps) under Section 47-(A)(10) of the Act for the purpose of determining the correct market value of the property. It also issued notice in Form-I fixing the value of the properties in DOC No.487/2002 at Rs.45,66,660/- and property in DOC No.488/2002 at Rs.12,94,900/- respectively.

6. The Special Deputy Collector (Stamps) on conclusion of the inquiry fixed the market value of the property covered under DOC No.488/2002 at Rs.10,36,937/- and the property covered under DOC No.487/2002 at Rs.51,16,600/-.

7. The respondent - herein being dissatisfied with the order passed by the Special Deputy Collector (Stamps) preferred a statutory appeal before the Inspector General of Registration. The appeal came to be dismissed.

8. In such circumstances, referred to above, the respondent - herein went before the High Court by filing Civil Miscellaneous Appeals under Section 47(A)(10) of the Stamp Act.

9. The High Court allowed both the appeals and thereby quashed and set aside the orders passed by the authorities below.

10. The appellants feeling dissatisfied with the impugned judgment and order passed by the High Court have come up before this Court with the present appeals.

11. We have heard Mr. Sabarish Subramanian, the learned counsel appearing for the appellants and Ms. Rohini Musa, the learned counsel appearing for the respondent.

12. We take notice of the fact that the High Court while allowing the Civil Miscellaneous Appeals has observed in paras 20 and 21 respectively as under:-

"20. That being the legal position, if the contention raised on the side of the learned counsel appearing for the Appellant is appreciated in the legal proposition, as above laid down by the Supreme Court, Full Bench, Division Bench and Single Judges of our High Court, it would compel this court to hold that the proceedings referring the documents for determination of the market value, without recording any reason to say that the document is undervalued, thus without performing the statutory obligation, cast upon the third Respondent Registering Officer, to record such reasons to arrive at a decision that the documents are undervalued and the same are required to be referred to the authority concerned to determine the actual market value of the property is contrary to the procedure laid down under law and is ex facie, illegal. Furthermore, no material is made available to show that the third Respondent/ Registering Officer, on the basis of such material, arrived at the conclusion that the true value is not set forth in the documents. In the absence of one such material, the proceedings initiated under Sec.47A is legally unsustainable, as such, the proceedings initiated for determination of the market value and the outcome of such proceedings, fixing the value of the property covered under Doc Nos.487 and 488/2002 at Rs.498/- per sq.ft. and Rs.95/- per sq.ft respectively and demanding additional stamp duty, on the basis of such exorbitant value fixed, is hence arbitrary bad in law and null and void.

21. In this case, the documents were registered on 05.09.2002, and 02.09.2002, whereas Form-I notice was issued on 25.09.2002 and 12.09.2002 respectively. However, Form-I notices did not reflect the reasons, for which, the value mentioned in the documents was treated as undervalued and the material based on which the value mentioned in the documents was enhanced. Further, the orders of the second

Respondent Special Deputy Collector (Stamps) dated 12.10.2004 did indicate the basis on which the value mentioned in the documents in question was enhanced. The reading of the same would reveal that his valuation was 'based on spot inspection and local enquiry. But what was the manner of local enquiry and what was the material collected in the course of such local enquiry to arrive at higher valuation at Rs.400/- per sq.ft and 76/- sq.ft. for the property covered in both the documents, and made available before this court. It is stated in the orders passed in respect of both the documents that the property at Sakkarapuram was situated at 150 feet from Chengi Bus stand and was on the north of the street leading to MP Nagar. When the property covered in both the documents is stated to be situated in the same village more or less adjacently, how the value was fixed at Rs.40/- per sq.ft. for one property and Rs. 76 /- per sq.ft. for other property is remained unexplained in the orders passed by the second Respondent. Further, the Appellant was not given any notice either for spot inspection or for local enquiry as contemplated under the relevant rules and their failure to do so is contrary to the procedure laid down under law and is in violation of the principles of natural justice."

13. The High Court concluded by observing the following in para 23 which reads thus:-

"23. Thus, the discussion held above would only reveal that the determination of the market value of the property in question is in pursuance of the reference made by the third Respondent Registering Authority under Section 47A of the Stamp Act, without following the procedure laid down under the Act and without performing the statutory obligation cast upon the third Respondent and the impugned orders of the Respondents 1 and 2, in enhancing the market value and demanding the additional stamp duty, based enhancement, are without any basis and based on irrelevant consideration and assumption and presumption and without application of mind. Further, as onus to prove that the instrument was undervalued, is on the department and the same has not been satisfactorily discharged by the Respondents, the impugned orders of the Respondents are liable to be set aside."

14. Thus what weighed with the High Court is the fact that the Form I notices failed to assign any reasons as to why the documents could be said to be undervalued. In other words, what was the basis for the Special Deputy Collector (Stamps) to say that sale

consideration shown in the two sale deeds was not correct. According to the High Court, there was no basis or any relevant materials on record to take the view that the two documents were undervalued except the spot inquiry and local inspection.

15. The only contention raised by the learned counsel appearing for the appellants is that it is not mandatory to assign reasons in the notice issued in Form I.

16. Section 17 of the Stamp Act reads as under:-

"17. Instruments executed in India. - All instruments chargeable with duty and executed by any person in India shall be stamped before or at the time of execution."

17. Section 47-A of the Stamp Act reads thus:-

"47-A. Instruments of conveyance etc., undervalued how to be dealt with.- (1) If the Registering Officer appointed under the Indian Registration Act, 1908 (Central Act XVI of 1908) while registering any instrument of conveyance, exchange, gift, release of benami right or settlement, has reason to believe that the market value of the property which is the subject matter of conveyance, exchange, gift, release of benami right or settlement, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon.

(2) On receipt of a reference under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, determine the market value of the property which is the subject matter of conveyance, exchange, gift, release of benami right or settlement and the duty as aforesaid. The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty.

(3) The Collector may, suo motu or otherwise, within five years from the date of registration of any instrument of conveyance, exchange, gift, release of benami right or settlement not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject matter of conveyance, exchange, gift, release of benami right or

settlement and the duty payable thereon and if after such examination, he has reason to believe that the market value of the property has not been truly set forth in the instrument, he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-Section (2). The difference, if any in the amount of duty, shall be payable by the person liable to pay the duty."

18. Under Section 47-A(1) and under Section 47-A(3), if the Registering Authority has reason to believe that the instrument of conveyance did not reflect the correct market value of the property, then the Registering Authority has the power to refer the same to the Collector for determination of market value of the property and the Collector, on reference, under Section 47-A(1), may determine the market value of such property in accordance with the procedure prescribed. Enquiry by the Registering Authority is a pre-condition for making reference to the Collector for determination of market value of the property. The determination of market value without Notice of hearing to parties is liable to be set aside. When the Registering Authority finds that the value set forth in an instrument was less than the minimum value determined in accordance with the Rules, in that event, the Registering Authority is empowered to refer the instrument to the Collector for determination of market value of such property and the Stamp Duty payable thereon.

19. When both the authorities viz., the Registering Authority and the Collector are vested with the discretion to decide regarding the market value of the property, by the expression 'reason to believe', then whether it reflects the subjective satisfaction of the authorities concerned or it reflects the objective

determination of the market value of the property? What is meant by 'reason to believe' is the issue to be considered.

20. Availability of material is the foundation or the basis, for any authority to arrive at any decision whatsoever. The basis of a thing is that on which it stands, and on the failure of which it falls and when a document consisting partly of statements of fact and partly of undertakings for the future is made the basis of a contract of insurance, this must mean that the document is to be the very foundation of the contract, so that if the statements of fact are untrue, or the promissory statements are not carried out, the risk does not attach. This has been interpreted in the case of *Dawsons Ltd. v. Bonnin*, 1922 (2) AC 413.

21. It has been rightly held in the case of *Mohali Club, Mohali v. State of Punjab*, reported in AIR 2011 P&H 23, that the Registering Officer, after registration of the document, can refer the same for adjudication before the Collector, if he has reason to believe that there was deliberate undervaluation of the property. Such a reference is not a mechanical act, but the Registering Officer should have a basis for coming to prima facie finding of undervaluation of the property. Duty is enjoined upon the Registering Officer to ensure that Section 47-A(1) does not work as an engine of oppression nor as a matter of routine, mechanically, without application of mind as to the existence of any material or reason to believe the fraudulent intention to evade payment of proper Stamp Duty. The expression 'reason to believe' is not synonymous with subjective satisfaction of the officer. The belief must be held in good faith, it cannot be merely a pretence. It is

open to the Court to examine the question whether the reasons for the belief must have a rational connection or a relevant bearing to the formation of the belief and are not irrelevant or extraneous to the purpose of the section. The word 'reason to believe' means some material on the basis of which the department can re-open the proceedings. However, satisfaction is necessary in terms of material available on record, which should be based on objective satisfaction arrived at reasonably.

22. Rule 3 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 (for short, "the Rules 1968") is as under:-

"3. Furnishing of statement of market value.-

(1) x x x x x

(4) The registering officer may also look into the "Guidelines Register" containing the value of properties supplied to them for the purpose of verifying the market value.

Explanation : The "Guidelines Register" supplied to the officers is intended merely to assist them to ascertain prima facie, whether the market value has been truly set forth in the instruments. The entries made therein regarding the value of properties cannot be a substitute for market price. Such entries will not foreclose the enquiry of the Collector under Section 47-A of the Act or fetter the discretion of the authorities concerned to satisfy themselves on the reasonableness or otherwise of the value expressed in the documents."

23. Form 1 of notice prescribed under the Rules 1968 reads thus:-

"Form I [See rule 4] Form of notice prescribed under rule 4 of the Tamil Nadu Stamp (Prevention of Under valuation of Instruments) Rules, 1968 To, Please take notice that under sub-section (1) of section 47-A of the Indian Stamp Act, 1899 (Central Act II of 1899), a reference has been received from the registering officer for determination of the market value of the properties covered by an instru-

ment of conveyance/ exchange/gift/release of benami right/settlement registered as document No dated the and the duty payable on the above instrument. A copy of the reference is annexed. 2. You are hereby required to submit your representation, if any, in writing to the undersigned within 21 days from the date of service of this notice to show that the market value of the properties has been truly and correctly set forth in the instrument. You may also produce all evidence in support of your representations within the time allowed. 3. If no representations are received within the time allowed, the matter will be disposed of on the basis of the facts available."

24. Form 2 of notice prescribed under the Rules 1968 reads thus:-

"Form II [See rule 6] Form of notice prescribed under rule 6 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 To, Please take notice that in the matter of the reference under sub-section (1) of section 47-A of the Indian Stamp Act, 1899 (Central Act II of 1899) relating to the determination of the market value of the properties covered by an instrument of conveyance/exchange/gift ¹[release of benami right/settlement] registered as document No dated received from the registering officer. I have passed an order provisionally determining the market value of the properties and the duty payable on the instrument. A copy of the order passed in the matter is annexed. Footnote:

1. The above expression was inserted by G.O. Ms. No. 1317, CT & RE, dt. 27.11.1982.

2. The matter relating to the final determination of the market value of the properties and the duty payable on the instrument will be taken up for hearing on the (date) ... camp at a.m/p.m. You are hereby required to lodge before the undersigned before the date of the hearing, your objections and representations, if any, in writing as*to why the market value of the properties and the duty as provisionally determined by me, should not be confirmed to adduce oral or documentary evidence and be present at the hearing. If you fail to avail yourself of this opportunity of appearing before the undersigned or adducing such evidence, as is necessary, producing the relevant documents, no further opportunity will be given and the matter will be disposed of on the basis of the facts available."

25. It appears that the High Court followed its Full Bench decision in *G. Karmegnam v. The Joint Sub-Registrar, Madurai* reported in 2007 (5) CTC 737 and other Division Bench decisions on the point in question more particularly the contention that Form I must contain some reasons for saying that the document is undervalued.

26. In the Full Bench decision, the High Court held as follows:-

"7. Registration of document is a sine qua non for referring the matter to the Collector, if the Registering Officer believes that the property is undervalued. No jurisdiction has been conferred on the Registering Officer to refuse registration, even if the document is undervalued. Besides, there is no authority for him to call upon the person concerned to pay additional stamp duty. Collector is the prescribed authority to determine the market value, after affording a reasonable opportunity of hearing the parties. The Registering Officer cannot make a roving enquiry to ascertain the correct market value of the property by examining the parties. However, it is expected that he has to give reasons for his conclusion for undervaluation, however short they may be. He can neither delay nor refuse registration of the instrument, merely because the document does not reflect the real market value of the property. In order to reach a conclusion, there is no bar for the Registering Officer to gather information from other sources, including official or public record. Valuation guidelines, prepared by the revenue officials periodically, are intended with an avowed object of assisting the Registering Officer to find out prima facie, whether the market value set out in the instrument has been set forth correctly.

x x x x x

26. When the Collector exercises powers under sub-sections (2) and (3), he shall be deemed to be a quasi-judicial authority, as the detailed procedure prescribed in the relevant rules evidently portrays that the Collector's decision is relatable and verifiable by the materials on evidence, which he brings into record, on making an enquiry after hearing the parties concerned. The Collector has been conferred with such powers by the statute, whereas the Registering Authority is not. The powers of the Registering Officer are remarkably limited i.e. to say, he cannot at all hold any enquiry to ascertain the quantum of Stamp Duty payable on an

instrument. As adverted to supra, he shall not undertake a detailed enquiry by examining the parties, which powers are exercisable by the Collector alone. The relevant rules would indicate that the procedures have to be adopted for an enquiry by the Collector. A detailed procedure has been formulated in Rule (4) for the Collector to act on receipt of reference under Section 47-A in Tamil Nadu Stamp (Prevention of Undervaluation of Instrument) Rules, 1968. It does not lay down any procedure as to what are the duties to be performed by a Registering Officer, while ascertaining the market value of the property. The necessary upshot would be, the legislature thought it appropriate to curtail the powers of the Registering Officer, probably for the reason that allowing the Registering Officer to make a roving enquiry would lead to loss of time for registration, resulting in accumulation of documents for registration with him. Further, prescribing an authority for the special purpose of conducting enquiry is very much essential, who shall not be the Registering Authority."

27. We are in complete agreement with the view taken by the Full Bench of the High Court. It is not permissible for the Registering Officer to undertake a roving enquiry for the purpose of ascertaining the correct market value of the property. If the Registering Officer is *bona fide* of the view that the sale consideration shown in the sale deed is not correct and the sale is undervalued, then it is obligatory on the part of the Registering Authority as well as the Special Deputy Collector (Stamps) to assign some reason for arriving at such a conclusion. In such circumstances, if the document in question is straightway referred to the Collector without recording any *prima facie* reason, the same would vitiate the entire enquiry and the ultimate decision. In the case on hand, it is not in dispute that the Form I notices did not contain any reason. It also appears that the Collector (Stamps) in his order also failed to indicate the basis on which the sale consideration shown in the two sale deeds was undervalued.

28. There is one more aspect of the matter which we should look into. The High Court in its impugned judgment while recording the facts in para 2 stated as under:-

"...The third Respondent, having refused to release the documents on the ground that it was undervalued, referred the same to the second Respondent Special Deputy Collector (Stamps), Cuddalore under section 47(A) (1) of the Act for determining the correct market value of the property and also issued notice in Form I, thereby fixing the value of the property in Doc.No. 487/2002 at Rs.45,66,660/- and the other property in Doc.No.488/2002 at Rs.12,94,900/-. Thereafter, the second Respondent also issued Form II notice to the parties to the documents for enquiry before him. The Appellant, who is the purchaser of the property filed his objections. After enquiry, the second Respondent Special Deputy Collector (Stamps) in his proceedings dated 12.10.2004 fixed the market value of the property covered under Doc no.487/2002 at Rs. 51,16,565 @ Rs.51,16,600/- (Rs.400/- per sq.ft for 9170/- sq.ft + building at Rs.14,48,565/-) and fixed the market value of the property covered under Doc.no.488/2002 at Rs.10,36,937/- @ Rs.10,37,000/- (Rs.76/- per sq.ft for 13,577 sq.ft + Well and laying stone at Rs.5,085/-) and accordingly demanded deficit stamp duty payable for the documents. Aggrieved against the same, the purchaser who is the Appellant herein, preferred further appeals before the first Respondent Inspector General of Registration, who by the impugned orders dated 27.01.2009, determined the value of the property covered in Doc No.487/2002 at Rs.498 /- per sq.ft for land and the property covered in Doc No.488/2002 at Rs.95/- per sq.ft. for land and Rs.15,96,999 /- for building...."

29. It appears from the aforesaid that the second respondent i.e. the Special Deputy Collector (Stamps) failed to pass any provisional order as contemplated in Rule 4(4) of the Rules 1968. Rule 4(4) of the Rules 1968 reads as follows:-

"4. Procedure On Receipt Of Reference Under Section 47-A:-

x x x x x

(4) After considering the representations, if any, received from the person to whom notice under sub-rule (1) has been issued, and after examining the records and evidence before him, the Collector shall pass an order in writing provisionally determining the market value of the

properties and the duty payable. The basis on which the provisional market value was arrived at shall be clearly indicated in the order."

30. As per Rule 6 of the Rules 1968, after passing the provisional order, it is obligatory on the part of the Collector to communicate the market value of the property and the duty payable by the parties concerned in Form II. On receipt of the Form II as contemplated under Rule 7 of the Rules 1968, the Collector shall have to pass the final order. It appears that in the case on hand, without following the Rules 4 and 6 respectively, the Collector (Stamps) directly passed the final order under Rule 7 of the Rules 1968.

31. The scheme of the Stamp Act and the relevant rules makes it abundantly clear that the Collector is obligated to communicate the provisional order to the parties concerned in respect of fixation of the correct value of the property and also the duty payable in Form II. In the case on hand, Form II was issued. To that extent, there is no dispute. However, after the issue of Form II, the parties concerned have to be given an opportunity to submit their representation in respect of determining the market value of the subject property. Thereafter, as contemplated in Rule 7 of the Rules 1968, the Collector, after considering the representation if received in writing and the submissions that might have been urged at the time of hearing or even in the absence of any representation from the parties concerned, proceed to pass the final order. It appears from the material on record that in the case on hand, the Collector (Stamps) directly issued the final order without complying with sub-rules (2), (3) and (4) respectively of Rule 4

and also without following Rule 6 of the Rules 1968. This could be said to be in violation of the Rules 4 and 6 respectively of the Rules 1968.

32. We are of the view that no error not to speak of any error of law could be said to have been committed by the High Court in passing the impugned order.

33. In the result, these appeals fail and are hereby dismissed.

34. Pending applications, if any, also stand disposed of.

.....J
(J.B. PARDIWALA)

.....J
(R. MAHADEVAN)

NEW DELHI
3RD JANUARY, 2025.