

# The Tamilnadu Chief Controlling ... vs A G Syed Mohideen on 6 October, 2020

**Bench: Uday Umesh Lalit, Vineet Saran, S. Ravindra Bhat**

1

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3373 OF 2020  
(@ out of SLP (CIVIL) No.15623/2019)

THE TAMILNADU CHIEF CONTROLLING REVENUE  
AUTHORITY CUM INSPECTOR GENERAL OF  
REGISTRATION & ORS.

Appellant(s)

VERSUS

A G SYED MOHIDEEN

Respondent (

WITH

CIVIL APPEAL NO. 3374 OF 2020  
(@ out of SLP (CIVIL) No.15624/2019 )

WITH

CIVIL APPEAL NO. 3375 OF 2020  
(@ out of SLP (CIVIL) No.15625/2019 )

WITH

CIVIL APPEAL NO. 3371 OF 2020  
(@ out of SLP (CIVIL) No.2613/2019 )

AND

CIVIL APPEAL NO. 3372 OF 2020  
(@ out of SLP (CIVIL) No.2457/2019 )

O R D E R

Uday Umesh Lalit, J.

Leave granted.

This appeal challenges the order dated 05.02.2018 passed by the High Court of Judicature at Madras in CMA No.3327/2011.

This appeal was taken up for hearing along with Civil Appeal No.2586 of 2020 and other related appeals. However, since none had appeared on behalf of the respondent, this appeal was segregated and rest of the matters were heard and by Judgment and order dated 15.06.2020, this Court allowed said appeals.

During the course of its judgment, following three questions were posed by this Court for consideration:

“1. Whether the directions issued by the appellate authority namely Chief Controlling Revenue Authority (Inspector General of Registration) in asking the Deputy Inspector General of Registration, or any other officer, to conduct the site inspection, amounted to delegation of his functions and violated Rule 11-A of the Rules and thereby vitiated the entire proceedings?

This question arises in all the appeals.

2. Whether Rule 7 of the Rules prescribing 3 months’ time for the Collector to pass an order determining the market value of the properties and duty payable on the instrument from the first notice, is directory or mandatory? This issue arises in all the appeals, except the one arising out of Special Leave Petition (Civil)No. 17103 of 2019.

3. Whether the appellate authority has power under Section 47A of the Act to enhance the market value of the property while deciding the appeal filed by the registrants?” Mr. Jayant Muth Raj, learned Additional Advocate General 1 (2020) 8 SCALE 68 = 2020 SCC Online SC 509 submitted that two of the issues in the present appeal stand concluded by the answers given to questions 1 & 2 as stated above. He submitted that the additional issue that arose for consideration by the High Court pertained to the construction and application of Rule 5 of Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, which Rule was quoted in para 5 of the aforesaid judgment dated 15.06.2020.

Mr. Muth Raj invited our attention to the order dated 26.02.2011 passed by Tamil Nadu Chief Revenue Control Officer and Inspector General of Registration in Pa.Mu.No.9134/2008. The matter was considered thus:

“6. As per the Inspection report of the District Registrar and the Special Deputy Collector (Stamps) though there is different values for the documented properties all the documented properties are of similar nature and similar standard. Further there

is pathway to and fro for the property through the launch belonging to the documentor and the property is very near to Cuddalore Chidambaram Main Road and situate near the residential area and there is casuarinas plants of six months in the property and taking into consideration the inspection report of the Special Deputy Collector (Stamps) and the report of the District Registrar and taking into consideration the nature, locating and utility of the documented property and on the basis of the general village enquiry and the enquiry of the Village Administrative Officer, the Market value of the documented property is fixed as Rs.7,00,000/- per acre and order issued” Mr.Muth Raj, therefore, submitted that the factors that were taken into account in the aforesaid order dated 26.02.2011 were consistent with the requirement of Rule 5 and especially Clauses (iv), (vi) & (iv) of sub-Rule (a).

The matter was however, considered by this High Court as under:

“11. During the site inspection cultivation of casuarina trees was noticed and the guideline value for S.No.11/1, 2, 10/3 and 18/4 was ranging between Rs.40,000/- and Rs.78,000/- per acre. While so the market value ought to have been fixed considering the nature of property on the date of registration, but it was fixed at Rs.7,00,000/- per acre considering chances of future development. A Hon’ble Division Bench of this Court in the case of Special Deputy Collector (Stamps), Chennai Collectorate, Singaravelar Maligai, Chennai vs. Thajunnisa and others reported in (2015) 6 MLJ 129, held that the classification of the land, the nature of user on the date of registration shall be taken as criteria for fixing the market value. The authority shall not fix the value on the basis of future development. The relevant paragraph of the said judgment is reads as under:-

“10. It is to be borne in mind that the Deputy Inspector General of Registration’s Report dated 22.03.2002 does not indicate any conclusion which was arrived at to the effect that the Respondents/Petitioners lands in question, were not agricultural lands. Just because the lands in question are having the potential of being converted as house sites in future, the authorities in this regard cannot allow their imagination to run riot or to indulge in assumptions, presumptions, surmises and conjectures, etc., in the considered opinion of this Court. Even the Suo Moto power as envisaged under Sub section (3) of the Section 47(A) of the Indian Stamp Act ought to have been exercised within two years from the date of Registration of the documents. As a matter of fact, the Suo Moto power of revision should have been exercised well before 11.04.1999 not at a later point of time. As such, it is candidly clear that the impugned order dated 08.04.2002 is without jurisdiction whatsoever and resultantly, Form 11 notices issued were invalid and illegal in the eye of law.” In our view, the High Court was in error in observing that the fixation of value in the instant case was based on future development. The valuation was based on parameters laid down in Rule 5 and as such the conclusion drawn by the High Court in respect of the issue in question was erroneous.

We had adjourned this appeal so that there could be representation on behalf of the respondent. However, none appeared on behalf of the respondent.

In any case, two out of three issues stand concluded by judgment dated 15.06.2020 and insofar as the third issue is concerned, the matter is quite clear on language of Rule 5 itself.

We, therefore, accept the submissions advanced on behalf of the appellant and allow this appeal. The judgment and order under appeal is set aside and the order passed by the Appellate Authority is restored. No order as to costs. SLP(C) Nos. 15624 & 15625 /2019 Leave granted.

In view of the decision in Civil Appeal arising out of SLP(C)No.15623/2019, these appeals which concern the same respondent who has chosen to remain unrepresented, are allowed in same terms. No costs.

Leave granted.

Mr. Jayanth Muth Raj, learned Additional Advocate General submitted that this appeal being covered by the decision of this Court in Civil Appeal No.2586 of 20201, be disposed of in same terms.

This appeal is, therefore, allowed in terms of the  
aforesaid decision. No costs.

Leave granted.

In terms of the order passed in Civil Appeal arising out of SLP(C) No. 2613/2019, this appeal is also allowed. No costs.

.....J. (UDAY UMESH LALIT) .....J. (VINEET SARAN) .....J. (S.  
RAVINDRA BHAT) New Delhi October 06, 2020.

ITEM NO.20      Court 4 (Video Conferencing)      SECTION XII

S U P R E M E C O U R T O F      I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C)      No(s).      15623/2019

(Arising out of impugned final judgment and order dated 05-02-2018 in CMA No. 3327/2011 passed by the High Court Of Judicature At Madras) THE TAMILNADU CHIEF CONTROLLING REVENUE AUTHORITY CUM INSPECTOR GENERAL OF REGISTRATION & ORS. Petitioner(s) VERSUS A G SYED MOHIDEEN Respondent(s) WITH SLP(C) No. 15624/2019 (XII) SLP(C) No. 15625/2019 (XII) SLP(C) No. 2613/2019 (XII) SLP(C) No. 2457/2019 (XII) Date : 06-10-2020 These petitions were called on for hearing today. CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT HON'BLE MR. JUSTICE VINEET SARAN HON'BLE MR. JUSTICE S. RAVINDRA BHAT For Petitioner(s) Mr. Jayant Muth Raj, AAG Mr. M. Yogesh Kanna, AOR Mr. Rajarajeswaran, Adv.

For Respondent(s) UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeals are allowed in terms of the signed order.

Pending applications, if any, shall stand disposed of.

(INDU MARWAH)  
COURT MASTER (SH)

(PRADEEP KUMAR)  
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)