IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.1624 of 2016

1. P.B.Basheer
2. Shaheenhashir, W/o B.P.Basheer
3. Suneed Hashir, S/o M.S.Hashir ...Appellants/Appellants

-vs-

1. The Inspector General of Registration
100, Santhome High Road
Santhome, Chennai

2. The District Revenue Officer (Stamps)
DRO Office, Coimbatore

3. The Sub Registrar No.1
Sub Registrar's office
Coimbatore ...Respondents/Respondents

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 47A(10) of the Indian Stamp Act, against the order dated 5.4.2016 in Pa.Mu.No.34140/N2/2013 passed by the first respondent, confirming the order of the second respondent dated 10.6.2013 in his proceedings Mu.Pa.No.1673/C/2012.

For Appellants : Mr.D.Ravichander

For Respondents : Mr.T.Jayaramaraj
Government Advocate (CS)

JUDGMENT

The appellants have challenged the order passed by the Inspector General of Registration, Chennai dated 5.4.2016, confirming the order passed by the District Revenue Officer (Stamps), Coimbatore dated 10.6.2013 in this appeal.

2. Learned counsel for the appellants submitted that the appellants had purchased the land covered in Survey No.567/1 having an extent of 1 acre, 22 cents and in Survey No.567/3 having an extent of 1 acre, 16 cents totalling to 2 acres, 38

cents situate in Kurichi village, Coimbatore Taluk from their vendors. After purchase of the said extent of land, they had presented the sale deed in the office of the Sub Registrar No.I, Coimbatore for registration on 16.2.2012 and the same was registered in Document No.3713 of 2012 on 6.7.2012. After completion of the registration, on a reference by the registering authority under Section 47-A(1) of the Indian Stamp Act for fixing the guideline value of the land at Rs.750/- per sq.ft., and for recovery of the deficit stamp duty, the District Revenue Officer (Stamps), Coimbatore, the second respondent herein initiated proceedings for recovery of the deficit stamp duty. Immediately the appellants also filed their valid objections with the second respondent and requested her to drop the proceedings, on the ground that they had correctly valued the land covered in Document No.3713 of 2012 at the rate of Rs.136/- per sq.ft. However, in spite of the valid objections, the second respondent has wrongly fixed the value at Rs.500/- per sq.ft. Again the appellants went before the Inspector General of Registration, Chennai, the first respondent herein questioning the fixation of the value at Rs.500/- per sq.ft., by the second respondent, on the ground that the second respondent has not even mentioned what is the guideline value of the land in question on the date of presentation, namely, on 16.2.2012. However, the first respondent, instead of dealing with the objections raised by the appellants before the second respondent and the consequent reasoning given by the second respondent in a non-speaking order, failing from his quasi-judicial function, has again wrongly confirmed the order passed by the second respondent by fixing the value at Rs.500/- per sq.ft. To demonstrate further, the learned counsel also drew the attention of this Court to the penultimate paragraph of the order passed by the first respondent. A mere reading of the finding and the conclusion reached by the first respondent, he pleaded, does not throw any light on what basis the first respondent has supported the order passed by the second respondent. Placing on record an order passed by me in the case of R.Ravi v. The Inspector General of Registration, Chennai and others, 2010-3-L.W.652, he further contended that the non-speaking orders passed by the second and first respondents are liable to be set aside.

3. Heard the learned Government Advocate for the respondents. Neither any counter affidavit nor additional typedset of papers have been filed by the respondents in spite of repeated adjournments.

4. A perusal of the orders passed by both the second and first respondents would show that when the appellants had purchased the land covered in Survey No.567/1 having an extent of 1 acre, 22 cents and in Survey No.567/3 having an extent of 1 acre, 16 cents totalling to 2 acres, 38 cents situate in Kurichi village, Coimbatore Taluk and paid the stamp duty at the rate of

Rs.136/- per sq.ft., totalling to Rs.11,28,000/- inclusive of the registration charges, after registration of the said document in Document No.3713 of 2012 on 6.7.2012, the Sub Registrar No.1, Coimbatore, the third respondent herein, entertaining a doubt as to the payment of stamp duty at the rate of Rs.136/- per sq.ft., taking a stand that a sum of Rs.750/- per sq.ft., should be the stamp duty payable by the appellants, referred the matter under Section 47-A(1) of the Indian Stamp Act before the second respondent. Pursuant thereto, immediately after the receipt of notice from the second respondent, valid objections were filed by the appellants with a request to drop the proceedings stating that they have rightly valued the land as per the guideline value existing then. In spite of the valid objections with supporting documents, the second respondent has fixed the value of the land in question at Rs.500/- per sq.ft. Aggrieved by the same, when a further appeal was filed before the first respondent under Section 47A(5) of the Indian Stamp Act, the first respondent has not dealt with how the appellants have wrongly paid the stamp duty of Rs.11,28,000/- at the rate of Rs.136/- per sq.ft., inclusive of the registration charges. When the orders passed by the first respondent and the second respondent do not throw any light whatsoever, it goes without saying that neither the first respondent, being a quasi-judicial authority, nor the second respondent had applied his/her mind to the several objections raised by the appellants. In my considered opinion, it is the paramount duty cast upon the quasi-judicial authority to deal with each and every objection raised by the appellants. In the present case, not even a single objection has been dealt with either by the second respondent or the first respondent. Therefore, the impugned orders, being non-speaking, are liable to be set aside. In fact, this Court, in a well considered judgment in the case of Tata Coffee Limited, Bangalore v. The State of Tamil Nadu represented by the Secretary to Government, Commercial Taxes & Registration Department, Chennai and others, 2008 (3) CTC 614, has clearly held that after registration of a document, the registering authority has no power to retain the document. The relevant portion of the order reads as under:-

> "15. Therefore, a combined reading of the relevant portions of the Indian Stamp Act and the Registration Act and the Rules framed thereunder apart from the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules 1968 makes it abundantly clear that after registration of a document, the Registering Authority has no power to retain the document."

5. In the light of the above, while setting aside the impugned orders, the matter is remitted back to the first respondent to decide the matter afresh, in the manner known to

law, by passing a speaking order, within a period of three weeks from the date of receipt of a copy of this order, failing which the document in question shall be returned to the appellants. With this observation, the civil miscellaneous appeal stands disposed of. Consequently, C.M.P.Nos.12281 & 12282 of 2016 are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration
   100, Santhome High Road
   Santhome, Chennai 600 004

2. The District Revenue Officer (Stamps)
   DRO Office, Coimbatore

3. The Sub Registrar No.1
   Sub Registrar's office
   Coimbatore

+1cc to Mr.D.Ravichander, Advocate, S.R.No. 69828

+1cc to the Spl. Government Pleader, S.R.No. 69702

C.M.A.No.1624 of 2016

MSM (CO)
PSI (28/12/2016)