IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2017

CORAM

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.M.A.No.2365 of 2016

S.Shanmuga Raja ...Appellant

vs.

1. Tamil Nadu Chief Revenue Controlling Officer cum Inspector General of Registration
   No.100, Santhome High Road,
   Chennai - 600 028.

2. Special Deputy Collector (Stamps)
   3rd Floor, Collector Office Complex,
   Korampallam, Tuticorin.

3. District Registrar,
   District Registration Office,
   Tuticorin.

4. Sub-Registrar,
   Tiruchendur, Tuticorin District. ... Respondents

Civil Miscellaneous Appeal is filed under 47(A) of the Indian Stamps Act, 1899 to set aside the order dated 27.07.2016 vide proceedings Pa.Mu.No.4047/N5/N4/2015 dated 27.07.2016 and quash the same consequently direct the fourth Respondent to register and release the sale deed dated 29.07.2013 vide document No.1773/2013 presented by the Petitioner by accepting the Stamp duty paid as per the Guideline value of Rs.585/- per Sq.Meter, the then displayed/ notified in the departmental website.



For Appellant : Mr.S.Shanmuga Raja (Party-in-person)

For Respondents: Mr.M.Venu Gopal Special Government Pleader (C.S.)

J U D G M E N T

This appeal is directed against the order of the Inspector General of Registration cum Chief Controlling Revenue Authority dismissing the appeal filed by the appellant by his order dated 27.07.2016.

2. In the appeal filed under section 47 A (5) the appellant had challenged the order of the second respondent dated 16.12.2014 made under Section 47 A (2) of the Indian Stamp Act fixing the value of the property purchased by him under the sale deed dated 29.07.2013 at Rs.6,97,490/- and demanding a deficit stamp duty of Rs.40,475/-.

3. The sale deed in question was found to be undervalued and a reference was made by the Sub-Registrar to the second respondent. Pursuant to the same the second respondent issued a notice under Form-I on 11.11.2013. The appellant had sent reply to the said notice on 05.12.2013 even before the receipt of the reply the second respondent had issued Form-II notice along with provisional order on 04.12.2013. The appellant had sent his objection for the provisional order dated 04.12.2013 on 27.01.2014. Thereafter, the second respondent has passed final orders on 16.12.2014. Aggrieved by the same the appellant had filed an appeal before the first respondent. The first respondent dismissed the appeal confirming the valuation fixed by the second respondent. Aggrieved the appellant has come forward with the above appeal.

4. I have heard Mr.Shanmuga Raja, Party-in-person and Mr.M.Venu Gopal, Special Government Pleader (C.S.).

5. Mr.Shanmuga Raja would raise several contentions. The foremost contention which merits acceptance is his contention based on breach of time stipulated under Rule 7 of Tamil Nadu Stamp (Prevention of undervaluation of Instruments) Rules, 1968. The Rule 7 of the said Rules reads as follows:

> Final order determining the market value-
>
> (1) The Collector shall, after considering the representations received in writing and those urged at the time of hearing or in the absence of any representation from the parties concerned or their failure to appear in person at the time of hearing in any case after careful consideration of all the relevant factors and evidence available with him [pass an order within three months from the date of first notice] determining the market value of the properties and the duty payable on the instrument, and communicate the order so passed to the parties and take steps to collect the difference in the amount of stamp duty if any.

6. As per the said Rules the final order should have been passed by the second respondent within three months from the date of the first notice. As stated earlier notice under Form-I was issued on 11.11.2013 and the final order came to be passed on 16.12.2014 nearly after more than a year. Therefore, the second respondent has not adhered to the time limit fixed under the Rules.

7. In Vijayalakshmi Vs. Chief Controlling Revenue Authority Cum Inspector General of Registration, reported in 2012 (3) LW 27, Hon'ble Mr.Justice B.Rajendran had held that time limit fixed under Rule 7 is mandatory and any non-compliance with the said rule results in entire proceedings vitiated. In view of the said pronouncement of this Court, the proceedings of the Authorities are vitiated and the orders of the Authorities are liable to be set aside.

8. In fine this Appeal is allowed. The order of the Authorities is set aside. The authorities are directed to return the sale deed to the appellant after completing formalities of registration. However, there will be no orders as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

dsa
To

1. Tamil Nadu Chief Revenue Controlling Officer
cum Inspector General of Registration
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+ 1 cc to Special Government Pleader Sr.63447

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NM(CO)
EU(11/10/2017)