IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2017

CORAM :

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

C.M.A.NO.3396 OF 2011

V.N.Govindaraman ... Appellant/Petitioner

Vs.

1. The Inspector General (Registration)
   Office of Inspector General of Registration
   Santhome High Road, Chennai - 600 028.

2. The Sub Registrar
   Office of Sub Registration
   Mylapore, Chennai - 600 004.

3. The District Revenue Officer (Stamps)
   Chennai ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47(A)(10) of Stamp Act, 1988, against the order of the first respondent herein passed in A.No.1256/N4/2004 dated 28.05.2004.

For Appellant : Mr.M.Muthappan
for M/s.R.Annagandhi

For Respondents: Ms.M.Jayasri
Government Advocate (CS)

J U D G M E N T

Aggrieved over the order passed by the Inspector General (Registration), the first respondent herein, dated 28.05.2004, the appellant is before this Court.

2. According to the appellant, he presented two documents bearing Nos.2479/2000 and 2480/2000 for registration, before the second respondent/Sub Registrar. The second respondent referred the documents for determination of the correct market value of the property to the third respondent under Section 47-A(1) of the Indian Stamp Act, 1899. In turn, the third respondent determined the value of the property at

Rs.3,899/- per sq.ft. and demanded deficit stamp duty and registration charges from the appellant. Against that order, the appellant preferred an appeal before the first respondent / Inspector General of Registration under Section 47-(A)(5) of the Indian Stamp Act, 1899.

3. The first respondent after giving a personal hearing to the appellant, on the basis of the report submitted by the Deputy Inspector General of Registration, fixed the market value of the property at Rs.3,500/- per sq.ft.

4. From the perusal of the impugned order, it is seen that the first respondent has not adhered to the mandatory requirement provided under the statute. As per Rule 11-A of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, it is mandatory for the appellate authority to conduct a site inspection under notice to the appellant.

5. Rule 11-A of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, reads as under:

> " 11-A. Decision of the appellate authority. - The appellate authority may, for the purpose of deciding an appeal, -
>
> (a) call for any information on record from any public office, officer or authority under the Government or any local authority;
>
> (b) examine and record statements from any member of the public officer or authority under the Government or the local authority; and
>
> (c) inspect the property after due notice to the parties concerned."

6. In the present case on hand, the mandatory requirement has not been followed by the first respondent herein. Furthermore, the appellant was not given any opportunity to defend his case effectively by furnishing the materials relied upon by the first respondent. Since the procedure laid down in the rules has not been followed, it amounts to violation of principles of natural justice also.

7. In such circumstances, the order dated 28.05.2004 passed by the first respondent in A.No.1256/N4/2004 is set aside and the matter is remitted back to the first respondent for fresh consideration, after affording ample opportunity to the appellant. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order,

8. It is represented by the learned Government Advocate (CS) that the State is going to announce a Scheme as "SAMADHAN SCHEME" for remission of stamp duty. Therefore, it is open to

the appellant to avail such scheme in the event of announcement of the Scheme by the State.

9. The Civil Miscellaneous Appeal is ordered on the above terms. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

bsm/tk

To

1. The Inspector General (Registration)
Office of Inspector General of Registration
Santhome High Road,
Chennai-600 028.

2. The Sub Registrar
Office of Sub Registration
Mylapore,
Chennai-600 004.

3. The District Revenue Officer (Stamps)
Chennai.

4.The Section officer,
VR Section, High Court, Madras.

+ 2 cc to M/s.R.Annagandhi Advocate,SR.85215

+ 1 cc to The Special Govt.Pleader(CS), SR.88206

C.M.A.NO.3396 OF 2011

SVI(CO)
NR 06/02/2018