IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

Cont.P.No.482 of 2017

Vanaja .. Petitioner

vs.

Mr.S.Gunasekaran,
The District Revenue Officer (Stamps),
Chennai-1. .. Respondent

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent for willfully disobeying the order passed by this Court in W.P.No.1465 of 2016 dated 27.07.2016.

For Petitioner : Mr.N.Suresh

For Respondent : Mr.K.V.Dhanapalan, Special Government Pleader

O R D E R

This Court, while setting aside the impugned proceedings of the respondent/contemnor dated 23.12.2015, vide order dated 27.07.2016, has directed the said official to strictly comply with the provisions of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 and thereafter to pass appropriate orders in accordance with law within a stipulated time.

2. The grievance expressed by the petitioner is that though subsequent to the said order, the respondent/contemnor has passed an order dated 27.12.2016, it was done without following the above said rules.

3. *Per contra*, Mr.K.V.Dhanapalan, learned Special Government Pleader, on instructions, would state that the order dated 27.12.2016 would clearly reveal that a fair and reasonable opportunity has been afforded to the petitioner and taking into consideration all the relevant facts only final determination has been made and would further contend that even prior to that, Form-I notice has been issued and the petitioner may not have any grievance and prays for closure of this contempt petition.

4. This Court has considered the rival submissions and also perused the entire materials placed before it.

5. Admittedly, reference has been made under Section 47(A)(2) of the Indian Stamps Act, 1899 and *suo motu* action has been taken by the respondent/contemnor and as per the said provision, the respondent has to follow the procedure contemplated under Section 47(A)(1).

6. Rule 6 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 deals with the procedure after arriving at provisional market value and it is relevant to extract the same:

> "**6. Procedure after arriving at provisional market value.-** The Collector shall communicate a copy of his order provisionally determining the market value of the properties and the duty payable, to all the persons who are liable to pay the duty along with the notice in Form II and call upon the parties to lodge their objections, if any, to such determination of the market value within the time specified in the notice. The Collector shall also

hear the parties on the date specified in the notice or on such other day as may be fixed by him."

7. A perusal of the order dated 27.12.2016 passed by the respondent/contemnor would disclose that final determination has been made without issuing Form-II notice and the best course open to the respondent is to arrive a provisional determination and issue Form -II notice and after eliciting response from the petitioner, shall pass final orders and admittedly the said procedure has not been followed. It is the further submission of the learned Special Government Pleader that the petitioner is having an effective alternative remedy by filing an appeal before the Inspector General of Registrations within a period of 60 days from the date of receipt of a copy of this order and in the light of the availability of alternative remedy, this order need not be set aside. This Court has already pointed out that relevant statutory provisions, namely Rule 6 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 has not been followed and therefore, it is unnecessary to direct the petitioner to avail the said alternative remedy.

8. In the result, the order dated 27.12.2016 passed by the District Revenue Officer (Stamps), Chennai-1 in Proc.No.C.P.No.5923/2014/A5 is set aside and the amount indicated in the said order is treated as provisional determination and the respondent is directed to issue Form-II

Notice by following Rule 6 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 and pass orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

9. This Contempt Petition is closed with the above observations.

SD/-
JOINT REGISTRAR(OS)I/C

jvm

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)

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SS/CO/22/06/2017

To
Mr.S.Gunasekaran,
The District Revenue Officer (Stamps),
Chennai-1.

one cc to the Govt.Pleader, High Court,sr.No.6626/17

one cc to N.Suresh, High Court,sr.No.6637/17