IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

CMA.No.1777 of 2008
M.P.No.1 of 2008

G.Dhandapani ... Appellant

Vs.

1.The Chief Controlling Revenue Authority
Cum Inspector General of Registration
Chennai.

2.The Special Deputy Tahsildar (Stamps)
Cuddalore.

3.The Sub Registrar
Kurinjipadi. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, against the order of The Chief Controlling Revenue Authority Cum Inspector General of Registration Chennai dated 11.04.2008 proceedings No.67911/No.3/05.

For Appellant : Mr.S.Victor Prasath for
: Mr.J.Ramakrishnan

For Respondents: Mrs.M.Jayashree
Government Advocate (CS)

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed against the order passed by the first respondent / Chief Controlling Revenue Authority cum Inspector General of Registration, Chennai, vide proceedings dated 11.04.2008.

2. The appellant is the presentant of the document. He purchased landed property to an extent of 0.11 cents valuing the same at Rs.78/-. The third respondent / Sub Registrar, Kurinjipadi, has referred the document for redetermination of market value under Section 47-A(1) of the Indian Stamp Act (shortly " the Act") to the second respondent. The second

respondent has determined the market value at Rs.496/- per sq.ft. Aggrieved over the same, the appellant preferred an appeal to the first respondent under Section 47-A(5) of the Act. The first respondent after getting a site inspection report through the District Registrar, has confirmed the value fixed by the second respondent. Aggrieved over the same, the appellant is before this Court.

3. Heard the submissions made on either side and perused the materials available on record.

4. On a perusal of the impugned order, it is seen that the District Registrar was directed to conduct site inspection and on the basis of the inspection report, the impugned order came to be passed. In the said process, a report with regard to the guideline rates was also obtained from the third respondent / Sub Registrar.

5. It is well settled that the District Registrar is not an officer under the Indian Stamp Act. Under the Indian Stamp Act, the first respondent is the competent authority and he is expect to conducted site inspection on his own. The powers conferred on him, cannot be delegated to anybody else, much less, to an authority, who is not connected to the functions under Indian Stamp Act.

6. This Court in S.SANTHI VS. THE CHIEF REVENUE CONTROLLING AUTHORITY & INSPECTOR GENERAL OF REGISTRATION, CHENNAI AND TWO OTHERS [C.M.A.NO.2820 OF 2012 DATED 05.06.2015] has held as follows:-

> "17. The Authority conferred with certain functions under a statute has to carry out the same on its own such function and cannot delegate the same to another in the absence any contemplation for such delegation under the Act. In the present case, under rule 4 (3) (c) and rule 11-A of the rules, 2nd respondent-Collector and the first respondent Inspector General of Registration respectively, have to inspect the property and there is no enabling provision under the rules or under the Act to delegate such power. Therefore, inspections by other officers at the behest of the respondents vitiate the entire proceedings.
>
> 18. The failure on the part of the 2nd respondent to pass a final order within 3 months from the date of Form-I notice as

> mandated under rule 7 of the rules vitiates the entire proceedings. Form - I notice was issued on 17.05.2005 and the final order was passed on 05.12.2006, after 1 1/2 years, i.e., after 3 months and hence the entire proceedings are vitiated.
>
> 19. The impugned order has been passed by the first respondent purely based on inspection reports of the District Registrar/Deputy Thasildar, who are not authorised under the Act and hence the said inspection reports are not materials collected by the authorities, entitled under the Act. Hence, the proceedings of the second respondent and first respondent are vitiated."

That is, the delegation of powers to the District Registrar, who is not at all an authority under the Indian Stamp Act, vitiates the order.

7. Further, the first respondent, while deciding the appeal, must have conducted site inspection, as per Rule 11-A of the Tamil Nadu (Prevention of Under Valuation of Instruments) Rules, 1968, (shortly "the Rules") after giving notice to the parties concerned. Rule 11-A of the Rules, 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 or 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 of authority under the Government or the local authority; and
>
> (c) inspect the property after due notice to the parties concerned."

As per Rule 11-A of the Rules, it is mandatory on the part of the appellate authority to conduct site inspection after due notice to the parties concerned and shall redetermine the market value. In the instant case, the first respondent has not conducted site inspection, but delegated the same, as stated supra, to the District Registrar. In such circumstances, the order passed by the first respondent is not sustainable in the eyes of law.

8. Accordingly, the order passed by the first respondent in proceedings No.67911/No.3/05 dated 11.04.2008, is set-aside and the matter is remanded back for fresh consideration and in conformity with Rule 11(A) of Tamil Nadu Stamps (Prevention of under Valuation of Instrument) 1968. The first respondent is directed to dispose of the appeal filed by the appellant within a period of three months from the date of receipt of copy of the order.

9. The Civil Miscellaneous Appeal is disposed of with the above observation and direction. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

dna/tk

To

1.The Chief Controlling Revenue Authority
Cum Inspector General of Registration
Chennai.

2.The Special Deputy Tahsildar (Stamps)
Cuddalore.

3.The Sub Registrar
Kurinjipadi.

+1cc to Mr.J.Ramakrishnan, Advocate, S.R.No. 85629
+1cc to the Special Government Pleader, S.R.No. 86067

CMA.NO.1777 OF 2008

SPD(CO)
GN(25/10/2018)