IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.2154 OF 2009

O.N.Sarbunisha Begum .. Petitioner/Appellant/Appellant

Vs.

1.Joint Sub-Registrar I
North Madras
Chennai - 600 001.

2.District Revenue Officer (Stamps)
Office of the Collector of Chennai
Singaravelar Maligai, Vth Floor,
No.32, Rajaji Salai,
Chennai - 600 001.

3.The Chief Controlling Revenue Authority
(Inspector General of Registration)
No.120, Santhome High Road,
Chennai - 600 028.

... Respondents/Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A(10) of the Indian Stamps Act read with Rule 9(5)(a) of Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules, 1968, against the order No.3880/N.1/08 dated 17.02.2009 passed by the third respondent and served upon the appellant on 26.02.2009 further enhancing the value of the property as determined by the second respondent which itself is more than the real sale consideration of the property paid by the appellant.

For Appellant : Mr.Saravanakumar
For Respondents : Ms.M.Jayasree
Government Advocate (CS)

J U D G M E N T

The appellant has presented his document for registration with the first respondent. The first respondent referred the document for fixation of market value under Section 47-A(1) of the Indian Stamps Act. The second respondent had conducted enquiry and fixed the market value as per the guideline value at Rs.39,60,000/-. The appellant has filed his objection with the second respondent. Subsequently, the second respondent, after conducting enquiry, had fixed the land value at Rs.3,825/- per sq.ft. Aggrieved over the fixation of the land value by the second respondent at Rs.3,825/- per sq.ft., the appellant has preferred an appeal before the third respondent Chief Controlling Revenue Authority / Inspector General of Registration. The third respondent has directed the District Registrar to conduct inspection of the property. The District Registrar has conducted a discreet enquiry and has recommended that there is no chance for reducing the market value. Thereafter, the third respondent has given personal hearing to the appellant and fixed the market value at Rs.4,500/- per sq.ft. Aggrieved over the same, the appellant preferred the above Civil Miscellaneous Appeal.

2. Mr.Saravanakumar, learned counsel appearing for the appellant would submit that the District Registrar is not an authority under the Act to conduct inspection and determine the value and thereby violated the principles of natural justice. The first respondent is mandated to follow the procedures in accordance with the principles of natural justice. Therefore, the order passed by the third respondent is illegal, arbitrary and without application of mind.

3. Per contra, the learned Government Advocate appearing for the respondents would submit that the market value was fixed on the basis of the guideline value available at the Sub Registrar's Office. The guideline value is an indicator of the prevailing market value. Therefore, the third respondent, considering the prevailing market value in that area, had arrived at a conclusion and fixed the market value at Rs.4,500/- per sq.ft. The order passed by the third respondent is very much justified and reasoned order. In so far as the principles of natural justice is concerned, the appellant was given an opportunity of personal hearing and he was represented by an Advocate and therefore, there is no violation of principles of natural justice.

4. I have considered the rival contentions.

5. The appellant preferred an appeal under Section 47-A (5) of the Indian Stamp Act against the order of the second respondent / District Revenue Officer, fixing the market value of the property at Rs.3825/-. The appellate authority can go into the validity and correctness of the order. He cannot treat the appeal as a platform for exercising power conferred under Section 47-A(6) of the Act. Both the provisions of the Act are separate and distinct. While deciding the appeal preferred by a presentant of the document, the appellate authority cannot

enhance the market value, more than what is fixed by the original authority.

6. As per the judgment of this Court in RAJENDRAN VS. THE INSPECTOR GENERAL OF REGISTRATION AND OTHERS [2012 (3) CTC 589] when an appeal is made by the land owner, the Inspector General of Registration cannot enhance the market value over and above the value determined by the Collector / District Revenue Officer. Therefore, the third respondent cannot enhance the market value without any materials. Thus, the order passed by the third respondent is illegal, arbitrary and without application of mind.

7. Rule 11-A of the Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules, 1968, certain mandatory procedures are laid down, which 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 the above rule, the appellate authority / third respondent shall conduct personal inspection. But the inspection was not conducted by him. Thus, the statutory requirement under Rules 11-A and 12 of the Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules 1968, has been violated.

8. On the contrary, the inspection of the property was conducted by the District Registrar. This Court in similar circumstances has considered the inspection conducted by the District Registrar and has held that the District Registrar is not an authority under the Act and is incompetent to redetermine the value. Therefore also, the impugned order is not sustainable. Further, it is incumbent on the appellate authority to furnish the documents relied on by him for determining the market value. The appellant shall be given an opportunity to put forward their objections. By not providing the documentary or other materials for determining the market value, the third

respondent has deprived the opportunity as contemplated by law.

9. Therefore, I am of the considered view that the order passed by the third respondent in his proceedings No.3880/N-1/808 dated 17.02.2009 is not sustainable and accordingly, set aside. The matter is remitted back to the third respondent for fresh consideration in accordance with Rule 11(A) of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968.

10. In fine, the Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

TK

To

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3.The Chief Controlling Revenue Authority
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No.120, Santhome High Road,
Chennai - 600 028.

Copy TO

The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.M.M.Abdul Razack, Advocate, S.R.No. 81755
+1cc to the Special Government Pleader, S.R.No. 81746

C.M.A.NO.2154 OF 2009

PVS(CO)
GN(18/12/2018)