IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2170 of 2007
M.P.No.1 of 2007

J.Kannan ... Appellant

Vs.

1. The Inspector-General of Registration, Chennai
2. The Special Deputy Collector (Stamps), Cuddalore
3. The Special Tahsildar, Tindivanam
4. The Sub-Registrar, Tindivanam ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, against the order passed by the 1st respondent in No.66051/N3/2004, dated 27.02.2006, confirming the order of the 2nd respondent in C.Pa.4103/02-03, dated 03.12.2004.

For Appellant : Mr.J.Jayan for D.Ravichander

For Respondents : Ms.M.Jayashree, G.A.

J U D G M E N T

Aggrieved by the award passed by the 1st respondent in No.66051/N3/2004, dated 27.02.2006, confirming the order of the 2nd respondent in C.Pa.4103/02-03, dated 03.12.2004, the appellant has filed this appeal.

2. The appeal is filed against the order passed by the first respondent / Inspector General of Registration under Section 47-A (5) of the Indian Stamp Act, 1899.

3. The appellant has registered a sale deed bearing Registration No.1118 of 2002 at the office of the Sub-Registrar, Tindivanam-2. On 25.10.2002, by virtue of a sale deed, he has

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purchased 2.29 acres of land. According to the report filed by the 2nd respondent, the said property is an agricultural land and there is no prospect to convert the same into house sites. The guideline value of the said property as mentioned at the Sub Registrar Office at that time was Rs.1,640/- per cent. On local enquiry, it found that the value per cent in that area is roughly around Rs.3,000/- to 4,000/- and accordingly the market value of the said property is fixed at Rs.4,000/- per cent.

4. Aggrieved by the order passed by the second respondent, the appellant preferred an appeal before the 1st respondent on 13.12.2004. The said appeal was disposed of by the first respondent by his order dated 27.02.2006 in No.66051/N3/2004. The first respondent, relying on the recommendation of the Special Deputy Collector (Stamps) as well as the Deputy Inspector of Registration, Cuddalore, confirmed the value of the Special Deputy Collector (Stamps) at sum of Rs.4,000/- per cent. The said order passed by the first respondent dated 27.02.2006 is under challenge in the present appeal.

5. The contention of the appellant is that the impugned order passed by the first respondent is without application of mind. The first respondent, even though has found that no document was registered in that area to arrive at an indicative rate of the guideline value, without any subjective satisfaction, has arbitrarily fixed the market value at Rs.4,000/- per cent. The person who recommended the market value, viz., the 3rd respondent / Special Tahsildar is not an authority under the Act. Therefore, the impugned order passed by the first respondent on the basis of the recommendation of the 3rd respondent is vitiated. Finally, it is contended that without adhering to the principles of natural justice and without any evidence, a non-speaking order came to be passed.

6.Ms.M.Jayashree, learned Government Advocate appearing for the respondents has contended that the rate fixed by the 1st respondent is not arbitrary or illegal. Based on the field inspection only, in the presence of appellant, the market value was determined. Therefore, the impugned order passed by the 1st respondent is sustainable in law and on facts.

7. On considering the rival contentions, admittedly the inspection was conducted by the Special Tahsildhar / 3rd respondent herein under Section 47(a)(2). When the matter was referred, the 3rd respondent conducted site inspection, after giving notice and affording reasonable opportunity for being heard and after holding enquiry in the manner prescribed by the Rules has determined the market value.

8. In the instant case, the rate was not fixed by the

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competent authority, i.e., the person who has authority under this Act. Secondly, when the appeal was filed, there are certain procedures prescribed by the Rules. As per Rule 11-A of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, the authority shall follow the mandatory procedures specified 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 or authority under the Government or the local authority; and
>
> (c) inspect the property after due notice to the parties concerned."

Hence, it is mandatory on the part of the appellate authority to adhere to the Rules and principles of natural justice and afford reasonable opportunity of hearing to the appellant. He could not act on the recommendations of his subordinates without application of mind.

9. In the instant case, it is submitted that the property involved in registration is only an agricultural property. Secondly, there is no indicative rate to arrive at the market value. Without having any subjective satisfaction, on the basis of the opinion given by incompetent officers and documentary evidence, the first respondent has simply re-determined the market value at Rs.4,000/- per cent. The materials relied on by him was also not furnished and the matter was decided without any opportunity to the appellant. Therefore, the impugned order passed by the first respondent is obviously a non-speaking order assigning no reasons to arrive at a conclusion and it is liable to be set aside.

10. Accordingly, the impugned order No.66051/N3/2004, dated 27.02.2006 is set aside. In the result, the Civil Miscellaneous petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Inspector-General of Registration, Chennai.

2. The Special Deputy Collector (Stamps), Cuddalore.

3. The Special Tahsildar, Tindivanam.

4. The Sub-Registrar, Tindivanam.

5. The Section Officer/Record Keeper,VR Section,High Court Madras

+1cc to Mr.D.Ravichander, Advocate, S.R.No.79672

C.M.A.No.2170 of 2007

NRJK(CO)

RRK(15/02/2018)

HIGH COURT OF JUDICATURE MADRAS
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