IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

CMA NO.1881 OF 2006
AND M.P.NO.1 OF 2006

M/s.LCC Cargo Holdings Ltd.,
Represented by Director C.R.Kumaran
1/A-1-ISV Street, Jothi Nagar,
Upplipalayam Post,
Coimbatore - 641 015. ... Appellant/Petitioner

Vs.

1.The Inspector General of Registration
No.100, Santhome High Road,
Chennai - 600 028.

2.The District Revenue Officer (Stamps)
Collectorate Compound
Coimbatore - 641 018.

3.The District Registrar
Coimbatore.

4.The Joint Sub Registrar
Coimbatore. ... Respondents/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A of the Indian Stamp Act against the order of the Chief Revenue Controlling Authority and the Inspector General of Registration, Santhome, Chennai, in proceedings No.1865/U1/2006 dated 27.03.2006.

For Appellant : Ms.P.T.Asha
for M/s.Sarvabhauman Associates

For Respondents: Mr.M.Venugopal
Special Government Pleader (CS)

J U D G M E N T

Aggrieved over the order passed by the first respondent, the appellant/purchaser of the property has preferred this appeal.

2. The appellant presented a sale deed before the fourth respondent for registration, assessing the market value of the property at Rs.2,75,000/-. Under Section 47-A(1) of the Indian Stamp Act, 1899, the second respondent issued a notice to the appellant in Form - I. On the representation made by the appellant, a show cause notice was issued to the appellant for personal hearing. In his proceedings, the second respondent, considering the situation of the property, has redetermined the market value of the property at Rs.950/- sq.ft. The appellant has paid the stamp duty and got the document registered. Thereafter, the first respondent has initiated suo motu action under Section 47-A(6) of the Act and issued a show cause notice vide his proceedings No.1865/U1/2006, dated 24.01.2006, followed by notices, dated 16.02.2006 and 04.03.2006, calling the appellant for personal hearing. Thereafter, vide his proceedings No.1865/U1/2006, dated 27.03.2006, the first respondent has redetermined the value of the property at Rs.2400/- per sq.ft., and demanded Rs.30,52,744/- towards deficit stamp duty and Rs.3,81,595/- towards deficit registration charges. Against the said order passed by the first respondent, the appellant is before this Court.

3. The appellant has challenged the order on the grounds that redetermination of the market value of the property by the first respondent is without any basis and without following the statutory rules.

4.Conversely, the learned Special Government Pleader, appearing for the respondents, would defend the order, stating that the rate was fixed based on the materials and considering the situation of the property, after conducting personal enquiry and, therefore, the impugned order is sustainable in law.

5. Heard the rival contentions.

6. The first respondent has passed the impugned order in his proceedings, dated 27.03.2006, stating that the guideline value of the property is Rs.1,123/- sq.ft., and that the rate fixed by the District Revenue Officer was at Rs.950/- per sq.ft., which was prejudicial to the financial interest of the State and would cause revenue loss.

7. For redetermining the market value, the first respondent has called for an inspection report from the District Registrar of Coimbatore District. He has considered the commercial importance of the property and the guideline value fixed by the Registration Department, which, according to him, was on the lower side and, based on his personal knowledge, has redetermined the value at Rs.50.00 lakhs per ground and, accordingly, passed the impugned order.

8. It is to be stated that the Registrar is not an authority in fixation of market value under the Indian Stamp Act, 1899. This Court, in a judgment in C.M.A.No.198 of 2015 and other connected matters in Kamel B.Sethiya v. The Sub-Registrar, dated 24.08.2017, has held that District Registrar and Tahsildar are not the officers under the Act and the market value fixed by them will vitiate the order passed by the authority. Secondly, it is seen from the impugned order that the first respondent, based on his personal knowledge, has fixed the rate at Rs.50.00 lakhs per ground. Even though the authority is empowered under Section 47-A (6) of the Act to redetermine the market value by suo motu revision, it shall be based on materials. Further, in redetermining the market value, the first respondent is required to follow the mandatory procedures laid down in Rule 11-A of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, 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 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."

Therefore, the order passed by the first respondent is not only violative of the statutory rules, but also is violative of the principles of natural justice, as it deprives the appellant from knowing as to on what basis the redetermination was made. Hence, in the opinion of this Court, the order passed by the first respondent is vitiated for violation of principles of natural justice and statutory rules. Redetermination of the market value of the property based on the personal knowledge is bad in law and, as such, the impugned order of the first respondent passed in proceedings No.1865/U1/2006, dated 27.03.2006, is set aside and the matter is remanded for fresh consideration, in accordance with law.

9. Civil Miscellaneous Appeal is allowed accordingly. No costs. Consequently, the connected M.P.No.1 of 2006 is closed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

TK/dixit

To

1.The Inspector General of Registration
No.100, Santhome High Road,
Chennai - 600 028.

2.The District Revenue Officer (Stamps)
Collectorate Compound
Coimbatore - 641 018.

3.The District Registrar
Coimbatore.

4.The Joint Sub Registrar
Coimbatore.

+1cc to Special Government Pleader SR.No.82658
+1cc to M/s.Sarvabhauman, Advocate Sr.No.82734

CMA NO.1881 OF 2006

RSI(CO)
sm:4.1.2018