IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.461 of 2007
and M.P.No.1 of 2007

B.Gunasegaran ... Appellant/Respondent

Vs.

1.The Chief Controlling Revenue Authority/
Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

2.The Deputy Inspector General of Registration,
Office of the Registration Department,
Coimbatore.

3.The District Revenue Officer (Stamps),
District Collector Office,
Coimbatore - 641 018.

4.The Sub-Registrar,
Office of the Registration Department,
Udumalpet. ... Respondents

Prayer : Civil Miscellaneous Appeal filed under sub-Section (10) of Section 47-A of the Indian Stamp Act, 1899 read with Rule 9 of the Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968 against the proceedings of the 1st respondent by order dated 19.10.2006 in No.9030/U1/2006 received by the appellant on 03.11.2006.

For Appellant : Mr.P.Saravanasowmiyan

For Respondents : Ms.M.Jayasree
Government Advocate

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the proceedings dated 19.10.2006 in No.9030/U1/2006 passed by the 1st respondent/ the Chief Controlling Revenue Authority-cum-Inspector General of Registration, Chennai.

2. The appellant has purchased the property in question and registered the same with the 4th respondent, the Sub-Registrar, Udumalpet, by a sale deed dated 27.01.2005, who referred the same to the 3rd respondent, the District Revenue Officer (Stamps), Coimbatore, for proper valuation under Section 47-A(1) of the Indian Stamp Act, 1899.

3. After issuing notice to the appellant, the 3rd respondent conducted an inspection and fixed the market value of the property at Rs.542/- per sq.ft and the same was communicated to the appellant. On receipt of the communication from the 3rd respondent, the appellant had remitted the deficit stamp duty as well as the registration charges. On receipt of the same, the 3rd respondent in his proceedings number 420 of 2005 dated 03.06.2005 has acknowledged the receipt of the deficit stamp duty and sent communication to the 4th respondent directing to release the document. Accordingly, the document was released.

4. While the matter stood thus, the 1st respondent had taken suo-motu action under Section 47-A(6) of the Indian Stamp Act, on the basis of recommendation given by the 2nd respondent, the Deputy Inspector General of Registration, Coimbatore, who fixed the market value of the property at Rs.677/- per st.ft. and demanded the deficit stamp duty. Aggrieved over the same, the appellant has come before this Court with this Civil Miscellaneous Appeal.

5. The learned Government Advocate had produced the files relating to the matter and submitted that the guideline value on the date of registration was Rs.677/- per sq.ft. and contended that the 1st respondent is justified in demanding the deficit stamp duty, on the basis of redetermination of the market value.

6. Heard the rival submissions made by both the counsel and also perused the materials on hand.

7. It is well settled that under Section 47-A(6), the 1st respondent is empowered to initiate the suo-motu proceedings if the order is prejudicial to the interest of Revenue. If there was subjective satisfaction, the same should be indicated in his order by adducing proper reasons. While processing the case under Section 47-A(6) of the Act, he is bound to follow the

mandatory procedure. The 1st respondent is expected to call for the public documents, record the statement of the public officers and inspect the property or caused it to be done by some other authority, after giving notice to the parties concerned. In the instant case, even though the inspection was done by the 3rd respondent and the market value was determined at Rs.542/- per sq.ft., on suo motu revision, the 1st respondent has deputed the 2nd respondent to inspect the property. The mandatory requirement of giving notice of inspection to the purchaser namely, the appellant herein was not followed and no materials on which, the 1st respondent arrived at the market value was also furnished.

8. A perusal of the impugned order passed by the 1st respondent dated 19.10.2006 also does not reveal the reason based on which, he arrived at the market value. The order was passed on the basis of recommendation given by the 2nd respondent.

9. In Rajendran Vs. The Inspector General of Registration and two others, reported in 2012 (3) CTC 589, it is held that the 1st respondent has power to redetermine the market value of the property, but he is bound to follow the principles of natural justice. It is mandatory to issue notice to the other side, otherwise the parties would be deprived of their right to offer their explanation, if any. In so far as non service of notice and material documents is concerned, the order passed by the 1st respondent is contrary to the said judgment.

10. The Hon'ble Apex Court on a similar occasion while dealing Section 3 of the Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968, in the case of R.Sai Bharathi Vs. J.Jayalalitha reported in 2003 (4) CTC 577 (SC), had held that the guideline value is not final but only a prima facie rate prevailing in that area. It is open to the registering authority as well as person seeking registration to prove the actual market value of the property. The authorities cannot regard the guideline valuation as the last word. When the purchaser presents the documents with regard to the market value of the property, if the authority is not satisfied, an opportunity to prove the market value shall be accorded to the purchaser before deciding the market value. However, the 1st respondent went on to fix the same rate as found in the guideline register without recording any reasons thereof. In such circumstances, this Court has no hesitation to set aside the order. Since such element governing the principles of natural justice and the procedure under Section 47-(A)(6) of the Indian Stamp Act are violated, the impugned order dated 19.10.2006 passed by the 1st respondent in No.9030/U1/2006, is set aside and the matter is remitted back to the first

respondent for fresh consideration.

11. In the result, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

asi/tk

To

1.The Chief Controlling Revenue Authority/
Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

2.The Deputy Inspector General of Registration,
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Coimbatore.

3.The District Revenue Officer (Stamps),
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Coimbatore - 641 018.

4.The Sub-Registrar,
Office of the Registration Department,
Udumalpet.

Copy To:
The Section Officer, VR Section, High Court Madras.

+1cc to Mr.P.Saravana Sowmiyan, Advocate SR.No.79432

+1cc to Government Pleader SR.No.79404

C.M.A.No.461 of 2007
and M.P.No.1 of 2007

GJ(CO)

GMY(29/10/2018)