IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.865 of 2009
and M.P.No.1 of 2009

S.Lakshmi ... Appellant

Vs.

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

Prayer : Civil Miscellaneous Appeal filed under Section 47-A(10) of the Indian Stamp Act, 1899, to set aside the order bearing No.10212/21/02 dated 24.11.2006 of the respondent herein in revising the market value determined and demanding the deficit stamp duty in respect of sale deeds registered as document Nos.286 and 287 of 2002 in Book-I in the office of Sub-Registrar, Kodambakkam.

For Appellant : Mr.N.Jayabalan

For Respondent : Ms.M.Jayasree
Government Advocate

J U D G M E N T

Aggrieved over the order passed by the respondent, the Chief Controlling Revenue Authority-cum-Inspector General of Registration, Chennai, by suo-motu revision under Section 47-A (6) of Indian Stamp Act, 1899, the purchaser has come up before this Court with this Civil Miscellaneous Appeal.

2. According to the appellant, she registered the property in question by paying proper stamp duty as per the prevailing market value on the date of purchase. However, on 14.11.2003, the respondent has initiated suo-motu revision under Section 47-A(6) of the Indian Stamp Act, and issued the notice. The appellant has also submitted her objection setting out the reasons for assessment of the market value of her property. The respondent by his impugned order dated 24.11.2006 has redetermined the market value at Rs.2,753/- per sq.ft.

3. According to the appellant, excess value was fixed in the show cause notice issued by the respondent and would contend that the order is violative of principles of natural justice and without following the statutory requirement under Rules.

4. The learned Government Advocate defends the order by stating that the property is situated in a commercial locality and the value was rightly fixed by the respondent.

5. Heard the learned counsel appearing for both the parties.

6. From a perusal of the order, it is seen that on 23.01.2006, the counsel for the appellant argued that the respondent has not followed the procedure laid down under Section 47-A(6) of the Indian Stamp Act, 1899. But, the respondent had formed a committee to conduct an inspection of the property and the appellant was directed to be present at the time of inspection and also afforded an opportunity to submit her objection at the time of personal hearing. But, the appellant has failed to appear for the inspection as well as the personal hearing. Thereafter only the market value of the property has redetermined at Rs.2,753/- per sq.ft, considering the locality of the property as well as the inspection report.

7. Under Rule 11-A of Tamil Nadu Stamp (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.

8. Insofar as the present case is concerned, the respondent has not followed the mandatory procedures laid down in law. Therefore, the order passed by the respondent is vitiated for non-adherence of the mandatory procedures.

9. In such circumstances, the order dated 24.11.2006 in No.10212/21/02 is set aside and the matter is remitted back to the authority for fresh consideration in compliance with Rule 11-A of Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. The respondent is directed to pass orders, within a period of three months from the date of receipt of a copy of this order. Further direction is given to the

respondent to adhere the principles of natural justice by giving notice for the inspection as well as the personal hearing. The same shall be followed in the proceedings to be conducted by him. The respondent is directed to provide materials relied on by him to the appellant adhering the principles of natural justice.

11. With the above observations and directions, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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

2.The Section Officer
VR Section High Court, Madras

+1 cc to Mr.M.Jayabalan Advocate sr 87019
+1 cc to Special Govt Pleader (CS) s 87116

C.M.A.No.865 of 2009
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gj(co)
aa17/01/2018