IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2114 of 2006
and C.M.P.No. 1 of 2006

1. M.Ponnathal
2. M.Kumar ... Appellants

Vs.

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

2.The District Revenue Officer (Stamps),
Coimbatore District.

3.The Sub-Registrar, Singanallur,
Coimbatore District. ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 47-A(10) of the Indian Stamp Act, 1899, against the order dated 24.04.2006 passed in proceedings No.17199/U1/2006, on the file of the 1st respondent, the Chief Controlling Revenue Authority-cum-Inspector General of Registration, Chennai.

For Appellants : Mr.A.Bobblie
For Respondents : Ms.M.Jayasree
Government Advocate

J U D G M E N T

Aggrieved over the order passed by the first respondent, the appellants are before this Court.

2. According to the appellants, they purchased an agricultural land and sought to register the same before the third respondent. The third respondent has referred the document for determination of the market value of the property under Section 47-A(1) of the Indian Stamp Act, 1899, (shortly "the Act") to the second respondent. The second respondent-District

Revenue Officer (Stamps) Coimbatore, had fixed the market value at Rs.45,000/- per cent viz., at the rate of Rs.45,00,000/- per acre. The order passed by the second respondent fixing the rate at Rs.121/- per sq.ft., was considered by the first respondent and a suo motu revision was made as per Section 47-A(6) of the Act. The first respondent has issued notice to the appellants and an enquiry was also conducted. But, the decision was taken on the basis of the report submitted by the District Registrar.

3. It has been categorically held in very many cases that the District Registrar is not an Officer under the Indian Stamp Act. If at all inspection should be conducted, it should be conducted only by the first respondent or by any competent authority. But the impugned order clearly reveals that the inspection was conducted by the District Registrar, Coimbatore. Further, while exercising power under Section 47-A(6) of the Act, the authority shall arrive at a subjective satisfaction for redetermination of the market value. But in this case, a general statement is made that the property is situated near Trichy Road and surrounded by commercial establishments and small industries. There is no finding as to the nature of the property. The appellants claimed that it is an agricultural property. Without giving any finding as to the nature and classification of the property, the first respondent had proceeded on the basis that the property is a house site.

4. This Court in SPECIAL DEPUTY COLLECTOR (STAMPS), CHENNAI COLLECTORATE, SINGARAVELAR MALIGAI, CHENNAI, VS. THAJUNNISA AND OTHERS [2015 (6) MLJ 129] has categorically held that the relevancy of the nature of the property shall be considered on the date of registration and future uses are irrelevant factors. In this regard, the relevant paragraph of the said judgment is extracted hereunder:

> "10. It is to be borne in mind that the Deputy Inspector General of Registration's Report dated 22.03.2002 does not indicate any conclusion which was arrived at to the effect that the Respondents/Petitioners lands in question were not agricultural lands. Just because the lands in question are having the potential of being converted as house sites in future, the authorities in this regard cannot allow their imagination to run riot or to indulge in assumptions, presumptions, surmises and conjectures etc., in the considered opinion of this Court. Even the Suo Moto power as envisaged under Sub Section (3) of the Section 47(A) of the Indian Stamp Act ought to have been exercised within two years from the date of Registration of

the documents. As a matter of fact, the Suo Motu power of revision should have been exercised well before 11.04.1999 not at a later point of time. As such, it is candidly clear that the impugned order dated 08.04.2002 is without jurisdiction whatsoever and resultantly, Form II notices issued were invalid and illegal in the eye of law."

5. Therefore, the first respondent has a bounden duty to apply his mind as to the nature and classification of the property and arrive at a subjective satisfaction for arriving the market value for recording the reasons. But in this case, the appellate authority has failed to record any reasons for arriving at the market value of the property and caused that inspection be done by the District Registrar, who is not a competent authority under the Indian Stamp Act. While deciding the issue, the appellate authority has not given a clear finding as to the nature and classification of the property.

6. For the above reasons, the impugned order is not sustainable in the eyes of law and accordingly, the order passed by the first respondent in his proceedings in No.17199/U1/2006, dated 24.04.2006 is set aside and the matter is remitted back to the first respondent for fresh consideration. The first respondent shall adhere to the procedures laid down under Section 47-A(6) of the Act, in conformity with the principles of natural justice and pass a reasoned order, within a period of four weeks from the date of receipt of a copy of this order.

7. This Civil Miscellaneous Appeal is disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//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 District Revenue Officer (Stamps),
Coimbatore District.

3.The Sub-Registrar, Singanallur,
Coimbatore District.

4.The Record Keeper,
VR Section, High Court,Madras

+1cc to Mr.L.Mouli, Advocate, S.R.No.79850

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AK(CO)
GSP(29/10/2018)