IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2017

CORAM

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

C.M.A.No.3692 of 2013

K. Poonkodi

.. Appellant/Petitioner

.. Vs..

1. The Chief controlling Revenue Authority cum
   the Inspector General of Registration,
   The Office of Inspector General of Registration,
   120, Sathome Highway, Chennai 600 028.

2. The District Registrar (Administration), Tiruppur.

3. The Sub Registrar,
   Dharapuram Sub Registrar Office,
   Dharapuram, Tiruppur. .. Respondents/Respondents

PRAYER:- Appeal filed under Section 47A(10) of the Indian Stamp Act, 1899, to set aside the order of the 1st respondent in Pa.Mu.No.6267/N2/2013, dated 18.10.2013.

For Appellant : Mrs.Hema Sampath
Senior Counsel
for Mr.S. Saravanan

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

JUDGEMENT

The appellant had purchased certain lands under sale deed dated 22.08.2011. Claiming that the sale deed has not reflected the true market value of the land purchased by the appellant viz., the Special Deputy Collector (Stamps), District Revenue Officer, Coimbatore has issued a notice under Form No.I on 10.12.2011. The appellant has submitted her objections to the same on 24.09.2012 and Form No.II notice was issued by the Special Deputy Collector (Stamps) on 03.11.2012 along with the provisional order as required under Rule 6 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968.

Thereafter, the Special Deputy Collector (Stamps), passed the final order on 08.01.2013 requiring the appellant to pay a deficit stamp duty of Rs.21,62,096/-[Rupees Twenty One Lakhs Sixty Two Thousand and Ninety Six Only]. Aggrieved by the same, the appellant had filed an appeal before the first respondent namely, the Inspector General of Registration.

2.By the order impugned in this Civil Miscellaneous Appeal dated 18.10.2013, the Inspector General of Registration had dismissed the appeal holding that the valuation fixed by the Special Deputy Collector (Stamps) is reasonable. Aggrieved, the present appeal has been filed by the appellant under Section 47A (10) of the Indian Stamp Act.

3. I have heard Mrs. Hema Sampath, learned Senior Counsel appearing for the appellant and Mr.Venugopal, learned Special Government Pleader (CS) appearing for the respondents.

4.Mrs. Hema Sampath, learned Senior Counsel appearing for the appellant to invited my attention to rule 7 of the rules framed under Section 47A and contended that the original Authority viz., the Special Deputy Collector (Stamps) ought to have passed an order within three months from the date of the first notice. According to her, the first notice viz., the notice under Form No.I was issued on 10.12.2011 and the same is also reflected in the provisional order passed under Rule 6 as well as the final order dated 08.01.2013. The final order has been passed only on 08.01.2013 which is nearly after one year and one month. Therefore, according to the learned Senior Counsel, the very order of the Special Deputy Collector (Stamps) is without jurisdiction, and therefore, the Appellate Authority erred in upholding the said order without going into the question of non compliance of Rule 7 of the rules framed under Section 47A of the Stamp Act.

5. Mr.M.Venugopal, learned Special Government Pleader (CS) produced the file relating to the appeal. From the perusal of the files, it is seen that Form No.I notice was issued on 10.12.2011, Rule 7(1) of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, reads as follows.

> "7(1). The Collector shall, after considering the representations received in writing and those urged at the time of hearing or in the absence of any representation in person at the time of hearing in any case after careful consideration of all the relevant factors and evidence available with him [pass an order within three months from the date of first notice] determining the market value of the properties and the duty payable on the instrument, and communicate the order so passed to the parties

and take steps to collect the difference in the amount of stamp duty, if any."

(emphasis supplied)

6. The statute therefore fixed a time limit of 3 months for the Special Deputy Collector (Stamps) to pass an order from the date of first notice. Admittedly, the said time limit has not been adhered by the Special Deputy Collector (Stamps) while passing the order. In K.Vijayalakshmi .Vs. Chief Controlling Revenue Authority of Tamil Nadu cum Inspector General of Registration, Chennai and Others reported in [2012] 3 MLJ 41, this Court had held that such violation would result in the entire proceedings being vitiated. I have also followed the said judgment in CMA.No.605 of 2006 in S.Manickam .Vs. The Chief Controlling Revenue Authority and Inspector General of Registration, Chennai and Others.

7.In the light of the above pronouncements, I am of the view that the authorities have lost their jurisdiction to fix the market value and demand deficit stamp duty after the expiry of three months from the date of the issuance of first notice. In the light of the above, the appeal is allowed and the order of the authorities are set aside. The authorities are directed to return the sale deed of the petitioner forthwith after complying with the remaining registration formalities if any. No costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

KP

1.The Chief controlling Revenue Authority cum
the Inspector General of Registration,
The Office of Inspector General of Registration,
120, Sathome Highway, Chennai 600 028.

2. The District Registrar (Administration),
Tiruppur.

3. The Sub Registrar,
Dharapuram Sub Registrar Office,
Dharapuram, Tiruppur.

+1 Cc to Mr.S. Saravanan, Advocate sr 56118.
+1 Cc to Govt. Pleader sr 56229.

VGI(CO)
sp(31/08/2017)