IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1605 of 2011
and M.P.Nos.1 and 2 of 2011

C.Govindasamy ... Appellant/Appellant/Landlord

Vs.

1. The Inspector General of Registration and the Chief Controlling Revenue Officer, 20, Santhome High Road, Chennai - 600 028.

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

3. The Sub Registrar, Sivagiri. ... Respondents/Respondents/Authorities

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A of the Indian Stamp Act, 1899, read with Rule 9(5) (A) of the Tamil Nadu (Prevention of Undervaluation of Instruments) Rules, 1968, against the order dated 30.12.2006 made in proceedings Pa.Mu.No.16573/N2/2006 on the file of the Tamil Nadu Inspector General of Registration-cum-Chief Controlling Revenue Authority, Chennai confirming the order dt.30.1.2016 made in Mu.Pa.No.198/2002 E dt.30.1.2006 passed by the District Revenue Officer(Stamps) Coimbatore.

For Appellant : Mr.P.Kaviri Nadan

For Respondents : Mr.M.Venkadesh Kumar
Government Advocate (C.S)

J U D G M E N T

Aggrieved over the order dated 30.12.2006 made in proceedings Pa.Mu.No.16573/N2/2006 passed by the Inspector General of Registration-cum-Chief Controlling Revenue Authority, Chennai/1st respondent, the appellant has come before this Court with this Civil Miscellaneous Appeal.

2. The appellant purchased an agricultural land and registered the same vide Document No.1048/2000. Even though it was registered in the year 2000, he received Form-II notice dated 08.07.2005, after a period of five years. The reference for redetermination of the market value after a period of five years was questioned by him by way of an appeal before the 2nd

respondent/District Revenue Officer (Stamps), Coimbatore. The 2nd respondent without conducting any inspection redetermined the market value of the property at Rs.26/- per sq.ft. Against which, the appellant preferred an appeal before the 1st respondent claiming that he had filed proof of classification of the land as agricultural land and that he was not served with Form-I notice. The appellate authority had also redetermined the value without conducting inspection and on the presumption that there are chances to convert the land as house sites. The appellate authority has confirmed the order passed by the 2nd respondent. Therefore, the present appeal is filed.

3. Heard the learned counsel appearing for both parties.

4. On a perusal of the materials available before this Court, it can be seen that the registration had taken place in the year 2000. As per Section 33-A of the Indian Stamp Act, the authorities shall initiate action in respect of instruments, in which proper stamp duty is not paid or paid insufficient stamp duty and or deficit in payment of stamp duty. This recovery shall be based on certificate issued by the District Registrar under the Registration Act, 1908. The certificate shall be granted after conducting an enquiry giving opportunity to the purchaser. Such enquiry shall not be commenced after the expiry of three years from the date of the registration of the instruments.

5. In the instant case, Form-II notice was issued on 08.07.2005. There is no indication that Form-I notice was issued. In such circumstances, it is very clear that the initiation of proceedings under Section 47-A(1) of the said Act is after a lapse of five years and such initiation is contrary to Section 33-A of the Act. The 2nd respondent has observed that Form-I and Form-II notices need not be sent by the registered post. But, the fact remains Form-I notice as per that Rule (4) of the Tamil Nadu (Prevention of Undervaluation of Instruments) Rules, 1968, in short "Rules" mandates issuance of notice to the person concerned in any one of the modes specified under Rule 15 of the said Rules. In the instant case, the reference made by the 2nd respondent does not disclose service of Form-I notice, which is a mandatory requirement. In the absence of service of notice under Rule (4) of the said Rules in Form-I, the entire proceedings would stand vitiated.

6. Even assuming that Form-I notice was issued in time and Form-II notice was issued on 08.07.2005, the order should have been passed within a period of three months from the date of first notice. But, in the instant case, even from the notice under Form-II dated 08.07.2005, the order was not passed within a period of three months. But, it was passed on

30.01.2006, after a lapse of seven months. On this ground also, the entire proceedings stand vitiated.

7. The contention of the learned counsel appearing for the appellant is that before redertermination of the market value of the property, the authority is mandated to conduct the site inspection under notice to the parties concerned. In the instant case, no notice was issued as contemplated under Rule 4(3)(c) of the said Rules.

8. A perusal of the order passed by the 1st respondent also disclose that site inspection was done by the Deputy Inspector General of Registration and not by appellate authority as contemplated under Rule 11-A of the Rules. Both 1st and 2nd respondents have not issued any notice of inspection to the parties and therefore, the impugned order is liable to be set aside.

9. The 1st respondent, by way of the impugned order, has redetermined the value of the property on the presumption that there are chances of the land being converted into house sites in future. This Court has repeatedly held that the nature and classification of the property on the date of registration shall be the criteria and it shall not be based on future development or future user. The authorities shall not fix the value on assumption, but it shall be based on legal evidence. In the instant case, the order passed by the 1st respondent fails on all aspects of mandatory requirements.

10. Therefore, I am inclined to set aside the order passed by the 1st respondent/Inspector General of Registration-cum-the Chief Controlling Revenue Authority, Chennai, in his proceedings Pa.Mu.No.16573/N2/2006 dated 30.12.2006.

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

Sd/-
Assistant Registrar(CS II)

//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 District Revenue Officer,(Stamps)
Coimbatore.

3.The Sub Registrar, Sivagiri

4.The Section Officer,
VR Section,
High court, Madras

+1cc to Special Government Pleader Sr.No.9509

KJ(CO)
sm:10.4.2018

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