IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 02-02-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1803 OF 2011

M/s.Corporate Alliance for Social Initiatives,
represented by its President
Vinodhkumar Sarogi ... Appellant/Petitioner

-vs-

1.The Inspector General of Registration,
Santhome High Road,
Chennai - 600 004.

2.The Deputy Inspector of Registration,
Office of the Collectorate,
District Collectorate Office Complex,
Tiruchirapalli.

3.The Special Deputy Collector (Stamps),
Office of the Collectorate,
District Collectorate Office Complex,
Tiruchirapalli.

4.The Joint Sub-Registrar-II,
Karur - 2. ... Respondents/Respondents

Appeal against the order, dated 30.11.2010, passed in Letter/Proceeding No.37643/Vu.4/09-1, on the file of Inspector General of Registration, Chennai-28(Which had been served on the Appellant on 18.01.2011) pursuant to the order made in passed by the District Revenue Officer(Stamps), Chennai.

For appellant : Mr.P.Arivudainambi

For respondents: Mrs.A.Madhumathi,
Addl.Govt.Pleader.

JUDGMENT

Aggrieved over the order passed by the first respondent-Inspector General of Registration, dated 30.11.2010, in suo motu proceedings under Section 47-A (6) of the Indian Stamp Act,1899, in short, "the Act", the appellant is before this Court.

2. According to the appellant, he presented the document before the fourth respondent for registration, which was referred to the third respondent for determination of the market value under Section 47-A (1) of the Act. The third respondent, after inquiry, redetermined the market value of the property at Rs.4500/- per cent and demanded the deficit stamp duty and registration charges. The appellant has remitted those charges, as demanded. Thereafter, an audit objection was raised and, in consequence of the same, the first respondent initiated suo motu action under 47-A (6) of the Act. The first respondent has caused an inquiry to be conducted by the second respondent, namely, Deputy Inspector General of Registration. However, no inquiry report was furnished to the appellant, before deciding the matter. Even though suo motu proceedings were initiated, the first respondent has not set out any reason as to how the value was arrived at and the basis on which the same was decided. Therefore, the appellant seeks that the order of the first respondent be set aside.

3. Controverting the arguments made by the learned counsel for the appellant, the learned Additional Government Pleader appearing for the respondents would submit that the inquiry was conducted in the presence of the appellant; the appellant was represented by an advocate and various factors with regard to the market value of the properties as well as the surrounding properties were considered and views of the public at large were also taken into consideration in determining the market value; the order passed by the first respondent is well reasoned; and, therefore, it does not require any interference.

4. Heard both sides.

5. On perusal of the impugned order, it is seen that the Inspector General of Registration has initiated his action on the basis of an audit objection. In this connection, it is necessary to refer to Section 47-A (6) of the Act, which reads as under :

> "47-A (6) The Chief Controlling Revenue Authority may, suo motu, call for and examine the order passed under sub-Section (2) or sub-Section (3) and if such order is prejudicial to the interests of revenue, he may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may initiate proceedings to revise, modify or set aside such order and may pass such order thereon as he thinks fit."

The above Section would provide that the Chief Controlling Revenue Authority may, suo motu, call for and examine the order passed under sub-Section (6) of Section 47-A, and if he comes to the conclusion that such order is prejudicial to the interests of revenue, he may make such inquiry or cause such inquiry to be made and, subject to the provisions of the Act, may initiate proceedings to revise, modify or set aside such order and may pass such order thereon, as he thinks fit.

6. In the instant case, the first respondent has initiated his action on the basis of audit objections. It is not on the basis of his conclusion that the orders passed under Sub-Section (6) of Section 47-A are prejudicial to the interests of the revenue.

7. In similar circumstances, this Court, in M/s Karpagavinayaga Associates v. The Inspector General of Registration of Tamil Nadu, ((2014) 5 Law Weekly 280), has held that initiation of suo-motu proceedings only based on the audit objection is not a proper exercise of power under Section 47-A of the Act. In paragraph 6 of the said judgment, this Court has observed as follows:

> "6. Apart from the above, I find that the Chief Controlling Authority has invoked suo motu proceedings only based on the audit objection. The Chief Controlling Authority can initiate suo motu proceedings by examining the order passed by the original authority under sub-Sections (2) and (3) of Section 47 of the Indian Stamp Act on arriving at a subjective satisfaction. In this regard, a reference could be placed in the judgment of this Court reported in (2012) 4 M.L.J. 704 - Rajendran v. Inspector General of Registration, 11 Chennai 600 028 and others. A perusal of the said judgment would show that the Chief Controlling Revenue Authority cum Inspector General of Registration, Chennai can arrive at a subjective satisfaction that the order passed under sub-section (2) of Section 47 by the original authority is prejudicial to the interest of the revenue. But, in the instant case, as observed earlier, suo motu proceedings have been initiated only based on the audit objection. Absolutely, no material is available that the suo motu proceedings have been initiated by the first respondent after arriving at subjective satisfaction that the order passed under sub-section (2) of Section 47 is prejudicial to the interest of the revenue. Since no such subjective satisfaction has been arrived at by the first respondent before initiating suo motu

proceedings, on this ground also, the order of the first respondent is liable to be set aside."

8. Therefore, it is clear that suo-motu proceedings were initiated only on the basis of audit objection and not on the subjective satisfaction that the orders passed under Sub-Sections (2) and (3) are prejudicial to the interests of the revenue. Secondly, the authority, before arriving at a conclusion that it is prejudicial to the interests of the revenue, can cause an inquiry to be conducted. Once he receives an inquiry report, he may initiate proceedings to revise, modify or set aside the order passed by the District Collector. In the process of deciding the market value, reasonable opportunity shall be given to the parties, who will be affected by the decision. The contention of the learned counsel for the appellant that the appellant was prejudiced by non-furnishing of the inquiry report made by the Deputy Inspector General of Registration has some force. Reasonable opportunity includes furnishing of material, which was relied on for arriving at a decision, to the aggrieved individual also. If the material is not furnished, then, it will amount to violation of principles of natural justice.

9. Further, it is seen that the first respondent has initiated action by his notice, dated 18.08.2009, based on the report of the Deputy Inspector General of Registration, dated 16.04.2008. However, he has not applied his mind to the relevant documents. The decision made by the first respondent states that he has taken such decision on the basis of location of the property, usage of the property, guideline value of the property and on the basis of the report of the Deputy Inspector General of Registration. But, the specific explanation for the stated reasons he arrived at a subjective satisfaction has not been spelt out in the order.

10. This Court, in Rajendran v. The Inspector General of Registration, 2012 (3) CTC 589, while dealing with the powers of the first respondent, namely, the Inspector General of Registration, has held as under :

"35. The jurisdiction of the Chief Controlling Revenue Authority in exercise of his suo motu power has its own limitations, as provided for, in sub sections (6) and (7) of section 47-A and from the language employed in the section. It could be construed that it is only supervisory, as he has all the authority to call for and examine any order passed under sub section 2 or sub section 3 suo motu, if such an order is prejudicial to the interests of the revenue. Before passing an order under Section 47(6) of the Act, after making an inquiry or causing any such enquiry to be made, the materials collected, the report if any, should be provided to the person against whom proceedings are initiated, to satisfy the requirements of the principles of natural justice, otherwise, the parties would be deprived of their right to offer their explanation, if any.

36. Enhancement of market value of the property on the appeals preferred by the land owners under Section 47(5) is not contemplated under the scheme of the Act, without recourse to sub section 6 of section 47, wherein the statute has contemplated a procedure of conducting an inquiry and reasonable opportunity. No doubt, the statute empowers the Chief Controlling Revenue Authority-cum-Inspector General of Registration, Chennai, to exercise suo-motu powers under Section 47(6) of the Act, within five years, from the date of passing of an order, under Section 47(2) and (3) of the Act, as the case may be, but the Statute mandates, consideration of the records, in terms of the objective, specifically incorporated in the Section and that he should arrive at a subjective satisfaction, as to whether, the order passed under sub-Sections (2) and (3) of Section 47-A of the Act, is prejudicial to the interests of Revenue. He must record reasons for arriving at the satisfaction."

11. While deciding the matters of this nature, the Inspector General of Registration shall receive documents, call for any information for record from any public office, officer or authority of the Government or any local authority and, if required, shall record their statements, so that he can arrive at the subjective satisfaction. In the instant case, nothing has been done to arrive at the subjective satisfaction and, as stated supra, no reasons have also been set out for arriving at the said decision in the impugned order. Therefore, this Court has no hesitation to set aside the impugned order. Accordingly, the order passed in Proceedings No.37643/Vu.4/09-1, dated 30.11.2010, on the file of first respondent, is set aside.

12. Civil Miscellaneous Appeal is allowed. No costs. Consequently, the connected M.P.No.1 of 2011 is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

dixit

To

1.The Inspector General of Registration,
Santhome High Road,
Chennai - 600 004.

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

3.The Deputy Inspector of Registration,
Office of the Collectorate,
District Collectorate Office Complex,
Tiruchirapalli.

4.The Special Deputy Collector (Stamps),
Office of the Collectorate,
District Collectorate Office Complex,
Tiruchirapalli.

5.The Joint Sub-Registrar-II,
Karur - 2.

copy to:

The Section Offcer,
VR Section,
High Court, Madras.

+ 1 cc to Mr.P.Arivudainambi Advocate,SR.8806
+ 1 cc to The Special Govt.Pleader(CS), SR.8569

C.M.A.No.1803 OF 2011

CA(CO)
NR 23/04/2018