IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 07-02-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2093 OF 2011

Sampoornam ...Appellant

-vs-

1.Tamil Nadu Chief Revenue Controlling Officer
and Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.

2.The Special Deputy Collector (Stamps),
Salem.

3.The Sub-Registrar,
Sankari,
Salem District. ...Respondents

Appeal against the order, dated 26.02.2011, passed in proceedings Pa.Mu.No.3376/N2/2010, on the file of Tamil Nadu Chief Revenue Controlling Officer and Inspector General of Registration, Chennai-25 confirming the order dated 29.09.08 made in SR.2705 1st on the file of special Deputy Collector, Salem.

For appellant : Mr.P.Kavirinadan
for Mr.N.Manokaran

For respondents : Mr.M.Venkadesh Kumar,
Govt.Advocate (CS)

JUDGMENT

This appeal is preferred against the order passed by the first respondent Inspector General of Registration, dated 26.02.2011, under Section 47-A (5) of the Indian Stamp Act,1899.

2. The appellant registered a sale deed bearing registration number 1067/ 2007 for puchase of an agricultural land. The document was referred for valuation to the second respondent by the third respondent. The second respondent has redetermined the value of the property at Rs.11/- per sq.ft., against which, an appeal was filed by the appellant to the first respondent. The first respondent has confirmed the order passed by the second respondent. Hence, the appellant has preferred this appeal.

3. Heard the arguments of both sides.

4. On perusal of the impugned order, it is seen that the first respondent has issued notice to the appellant on 03.03.2010 and caused inspection to be conducted through the District Registrar, Salem (West). The District Registrar has submitted his report, dated 12.10.2010, on the basis of which, the impugned order came to be passed.

5. At the first instance, it is well settled that District Registrar is not an officer under the Indian Stamp Act, but, he is an officer under the Registration Act. All the more, he can grant a certificate of registration for initiation of proceedings for recovery of stamp duty and he cannot conduct inspection and redetermine the value or recommend the market value of the propoerty. Since District Registrar is not the authority under the Indian Stamp Act, the proceedings culminated on the basis of his report would stand vitiated. Secondly, the report submitted by the District Registrar was not furnished to the appellant. This Court, in a judgment in R.V.Refractories v. District Revenue Officer (Stamps), Chennai, reported in 2009 (3) MLJ 672, following the judgment in Collector of Nilgiris v. Mahavir Plantations Pvt. Ltd., reported in AIR 1982 MADRAS 138, has held the opinion obtained behind the back of the appellant cannot be relied upon and it will amount to violation of principles of natural justice. In the insant case, the inspection was done behind the back of the appellant without notice to him. In such circumstances, the reliance of the inspection report submitted by the District Registrar by the first respondent is violative of principles of natural justice and the order passed on that basis is not sustainable in the eye of law. Further, the report of inspection done by the District Registrar reveals the cultivation of corn in the agricultural land purchased by the appellant. It is admitted by the respondents that the property purchased is an agricultural land. In that event, valuation shall be done in accordance with the value pertaining to the agricultural land and it cannot be determined on the basis of square foot rate, as that of house sites. From the violations of mandatory requirements of statutory provisions of the Indian Stamp Act, it can be easily inferred that the order passed by the first respondent is not legally sustainable and it is, accordingly, set aside.

6. Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dixit

To

1. The Inspector General of Registration,
Chennai-28.

2.The Special Deputy Collector, Salem.

3.The Sub Registrar, Sankari, Salem District.

+ 1 cc to Special Government Pleader (CS) SR.9512

C.M.A.No.2093 OF 2011

KS(CO)
EU(03/04/2018)