IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 02-02-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.Nos.2263 & 2264 OF 2011

J.Devaki ..Appellant in C.M.A.No.2263/2011
Valliammal ..Appellant in C.M.A.No.2264/2011
Appellant

-vs-

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

2.The Special Deputy Collector
In-charge, (Stamps),
Coimbatore. ...Respondents/Respondents/Authorities

C.M.A.No.2263 of 2011 is filed against the order, dated 25.01.2011, passed in Pa.Mu.41263/N2/2008, on the file of Tamil Nadu Chief Revenue Controlling Officer and Inspector General of Registration, Chennai.

C.M.A.No.2264 of 2011 is filed against the order, dated 25.01.2011, passed in Pa.Mu.62354/N2/2008, on the file of Tamil Nadu Chief Revenue Controlling Officer and Inspector General of Registration, Chennai.

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

COMMON JUDGMENT

The appellants presented documents for registration, which were referrred for determination of market value under Section 47-A (1) of the Indian Stamp Act,1899, in short, "the Act". The second respondent issued Form-I notice on 27.07.1998 and Form-II notice on 24.07.2000 and final orders came to be passed on 29.01.2002. Aggrieved over that, they preferred appeals before the first respondent, which were decided on 25.01.2011.

2. Learned counsel for the appellants would submit that the orders passed by the first respondent, dated 25.01.2011, are contrary to the mandatory provisions of the Act and the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules,1968; the first respondent has failed to conduct inspection after giving notice to the parties, as mandated under Rule 11-A of the Rules, and no opportunity was given to the appellants to defend their case effectively; and, therefore, the orders passed by the first respondent are liable to be set aside.

3. Per contra, learned Government Advocate, appearing for the respondents would submit that the impugned orders were passed by the first respondent only after following the principles of natural justice and hearing the appellants and, therefore, the said orders do not require any interference.

4. On perusal of the final orders passed by the second respondent, it is seen that Form-I notice was issued on 27.07.1998 and final order was passed on 29.01.2002. In this regard, it is imperative to refer to Rule 7 (1) of the Rules, which reads as under :

> "7. Final order determining the market value:-
>
> (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 from the parties concerned or their failure to appear in person at the time of hearing in any case after a 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."

5. As per the above Rule 7 (1), the orders should be passed within three months from the date of first notice, whereas, in this case, they were passed after a period of four years, in contravention of the rule. Further, several procedures are also set out in deciding the appeal under Rule 11-A, which reads under :

> "11-A. Decision of the appellate authority. - The appellate authority may, for the purpose of deciding an appeal, -

(a) call for any information or record from any public office, officer or authority under the Government or any local authority;

(b) examine and record statements from any member of the public officer or authority under the Government or the local authority; and

(c) inspect the property after due notice to the parties concerned."

6. A reading of the impugned orders would reveal that the entire decision is taken on the basis of the report given by the District Registrar. The District Registrar is not the competent authority under the Indian Stamp Act. Also, in so far as the proceedings under Section 47-A are concerned, the District Registrar is not the competent authority. The first respondent has not only relied on the report of the District Registrar, but he also failed to conduct site inspection under notice to the aggrieved individuals, as contemplated under Rule 11-A of the Rules. Therefore, this Court is of the considered opinion that the impugned orders passed by the first respondent are not sustainable in law. They are, accordingly, set aside.

7. Civil Miscellaneous Appeals are allowed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

dixit
To
1. Tamil Nadu Chief Revenue Controlling Officer
and Inspector General of Registration, Chennai.
2. The Special Deputy Collector, In-charge, (Stamps)
Coimbatore.
3. The Section Officer, VR Section High Court, Madras.
+ 1 cc to MR. N. Manokaran, Advocate Sr.8166
+ 1 cc to Special Government Pleader Sr.8582

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SVI(CO)
EU(04/04/2018)