IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 07-02-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2516 OF 2011

K.Nalliappan ... Appellant/Applicant

-vs-

1.Tamil Nadu Inspector General of Registration and
Principal Revenue Authority,
Office of the Inspector General of Registration,
Madras - 600 028.

2.The D.R.O. (Stamps),
Office of the D.R.O.,
Chennai Collectorate,
Chennai-600 001.

3.The Sub-Registrar,
S.R.O., T.Nagar,
Chennai-600 015. ... Respondents

Appeal against the order, dated 29.03.2010, passed in proceedings Pa.Mu.No.72293/F1/2005, on the file of Inspector General of Registration, Chennai.

For appellant : Mr.K.Bijai Sundar

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

JUDGMENT

This appeal is directed against the suo motu revision taken by the first respondent-Inspector General of Registration under Section 47-A (6) of the Indian Stamp Act,1899, in short, "the Act".

2. The appellant presented the document for registration and the same was registered as Document No.69/2004 on the file of third respondent. Thereafter, it was referred for valuation to the second respondent. The second respondent determined the market value of the property at Rs.3800/- per sq.ft. The appellant has remitted the deficit stamp duty as well as the registration charges and got the document released. Thereafter,

by letter, dated 24.03.2006, the first respondent issued show cause notice to the appellant as to why the value of Rs.4754/- per sq.ft. be not collected. The appellant submitted his reply on 27.04.2006. By notice, dated 09.06.2006, the first respondent called for objections against the show cause notice. On 10.10.2006, the appellant, through his lawyer, sought for certain documents relied on by the first respondent, for submitting his reply, along with necessary charges for supplying those documents. The said reply was followed by two reminders, dated 21.10.2009 and 06.03.2010 of the appellant. The District Registrar, in his proceedings Na.Ka.No.31434/E1/10, dated 06.05.2010, directed the Sub-Registrar to furnish the documents to the appellant under acknowledgement.

3. A perusal of the impugned order would go to show the factum of the request made by the appellant for supply of the documents relied upon by the first respondent for suo motu revision of the market value under Section 47-A (6) of the Act. It is also recorded that site inspection was conducted by the District Registrar and the report was sent to the appellant by letter, dated 12.02.2007, and the remaining eight documents, which were sought for by the appellant, were not available at the office of the first respondent and that the authority went on to decide the appeal on the basis of the report submitted by the District Registrar and, accordingly, the market value of the property was fixed at Rs.4754/- per sq.ft. It is further seen from the impugned order that the suo motu revision was done by the first respondent, based on the report submitted by the District Registrar. District Registrar is an officer under the Registration Act, but not an officer under the Indian Stamp Act. District Registrar can only grant a certificate regarding insufficiency of the stamps and recommend for initiation of proceedings for recovery of deficit stamp duty. The authorities under the Indian Stamp Act, namely, the District Collector/District Revenue Officer shall initiate the proceedings and conduct site inspection, after giving notice to the parties concerned. In case of suo motu revision by the Inspector General of Registration, namely, first respondent, can cause the inspection to be conducted by anyone for this purpose. The mandatory requirement is that the inspection shall be conducted in the presence of the parties concerned. But, in the instant case, the District Registrar, who is not an authority under the Indian Stamp Act, has conducted the inspection. The statement that the inspection report has been furnished by the office of the first respondent would go to show that inspection was not done in the presence of the appellant. Such an inspection is clearly violative of the principles of natural justice and Rule 11-A of Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules,1968.

4. It is well settled that when the Chief Controlling Revenue Authority proceeds with suo motu revision, it is mandatory that he arrives at the subjective satisfaction and records reasons for that. The subjective satisfaction shall be arrived at, on the basis of the material documents, which are relevant for that purpose. Surprisingly, the order passed by the first respondent reveals that none of the documents, which were sought for by the party and which were relevant for redetermination of the market value of the property, were available at the office of the first respondent. In such circumstances, the first respondent has not applied his mind to any document or material to arrive at the subjective satisfaction. The order also reflects that the first respondent has accepted the recommendations of the District Registrar and fixed the value of the property at Rs.4754/- per sq.ft. There are no discussions or reasons for arriving at the value on the basis of any documents. Therefore, this Court can infer that the first respondent has not arrived at the subjective satisfaction in determining the market value. In the judgment reported in 2012 (3) CTC 589 (Rajendran Vs. The Inspector General of Registration, Chennai, and two others), this Court has held that while exercising suo-motu power under Section 47-A(6) of the Indian Stamp Act, 1899, the statute mandates consideration of the records, in terms of the objective, specifically incorporated in the Section and that the authority should arrive at a subjective satisfaction, as to whether the order passed under sub-sections (2) & (3) of Section 47-A of the Act is prejudicial to the interest of Revenue and he must record the reasons for arriving at the satisfaction.

5. From the impugned order, it is very clear that the documents requested by the appellant to effectively defend his case were not supplied and even the first respondent did not apply his mind to those documents, due to non-availability of the same in his files. The procedure adopted by the first respondent is totally derogatory to the rules in force. Hence, I have no hesitation to set aside the impugned order passed by the first respondent, as it lacks subjective satisfaction, and, accordingly, the same is set aside. No costs.

dixit

Sd/-
Assistant Registrar
/TRUE COPY/

Sub-Assistant Registrar

To

The Inspector General of Registration,
Chennai.

+1CC to Mr.K.Bijai Sundar, Advocate in SR.NO. 9295/18

C.M.A.No.2516 OF 2011

SR [CO]
MLT-28/03/2018