IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.3227 of 2011
and M.P.No.1 of 2011

G.Arunkumar ... Appellant/Purchaser

Vs.

1. The Sub Registrar,
   Sathiyamangalam,
   Sathi Taluk,
   Erode District. ..1st Respondents/ Referring Officer

2. The District Revenue Officer,
   (Stamps), Collectorate,
   Coimbatore 641 018. .. 2nd Respondent/ Deciding Authority

3. The Chief Controlling Revenue Authority/
   Inspector General of Registration,
   100, Santhome High Road,
   Chennai – 600 038. ...3rd Respondent/ Appellate Authority

Prayer : Civil Miscellaneous Appeal filed under sub-Section (10) of Section 47-A of the Indian Stamp Act, 1899 to set aside the order of the Chief Controlling Revenue Authority and Inspector General of Registration, Chennai in Pa.Mu.No.44710/N2/20, dated 16.08.2011 confirming the order of the District Revenue Officer (Stamps) Coimbatore, in Mu.Pa.No.1142/09, dated 27.07.2010.

For Appellant : Mr.N.E.A.Dinesh

For Respondents : Ms.A.Madhumathi, AGP

J U D G M E N T

The present Civil Miscellaneous Appeal has been preferred against the order in Pa.Mu.No.44710/N2/20, dated 16.08.2011 passed by the third respondent/ the Chief Controlling Revenue Authority-cum-Inspector General of Registration, Chennai.

2. According to the appellant, the land in question is an agricultural land and he registered the same with the first respondent. It was referred for determination of market value to the second respondent under Section 47-A(1) of the Indian Stamp Act, 1899. Form No.I notice was issued to him under Rule 4(1) of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules 1968 (hereinafter referred to as "the Rules"), on 10.11.2009. The second respondent has conducted the spot inspection in the presence of the appellant, wherein, he had found coconut trees, plantain and other crops cultivated in the property. The second respondent further found that the property is not fit for conversion into house sites, as High Tension and Low Tension Power Lines of electricity department are running over the property. Since the said property is near the boundary of the village where wild animals are moving around the area and having found that the property is only an agricultural property, without any reasons, fixed the value of the land at Rs.9 lakhs per acre and the same is unjust and unreasonable. Whereas, the appellate authority, on the other hand, relied on the report of the District Registrar and the Deputy Inspector General of Registration held that the land is agricultural land and the same is situated near the boundary of the village. However, considered that it would be converted into house sites later and confirmed the value fixed by the second respondent. Aggrieved by the order dated 16.08.2011, the appellant has preferred the present miscellaneous appeal before this Court.

3.Heard both sides and perused the materials available on record.

4.On a perusal of the order passed by the second respondent, it is seen that Form No.I notice was issued on 10.11.2009 under Rule 4(1) of the Rules and following the same, Form No.II notice was issued on 28.05.2010 and the final order was passed on 27.07.2010.

5.It is decided in various cases that the authority while exercising his power to determine the market values, shall conform to time limit specified under Rules. Rule 7 of the Rules mandates the time limit and the same reads as follows:

> "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

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

(2)A copy of the order shall be communicated to the registering officer concerned for his record.

(3)The difference in the amount of duty determined by the Collector shall be paid within two months from the date of final order passed under sub-section (2) or sub section (3) of section 47-A.

(4)The Collector shall, after collecting the difference in amount of stamp duty and interest, if any, under section 47-A, give a certificate in Form III by endorsement on the instrument."

6.As per Rule 7 of the Rules, the authority shall decide the matter within three months from the date of issuance of first notice. In the instant case, first notice was issued on 10.11.2009 and the order was passed on 27.07.2010 i.e. after nearly eight months. This Court in similar circumstances decided the issue in C.M.A.No.2820 of 2012 dated 05.06.2015 (S.Santhi Vs. The Chief Revenue Controlling Authority & Inspector General of Registration, Chennai and two others), wherein, it was held as follows:-

18.The failure on the part of the 2nd respondent to pass a final order within 3 months from the date of Form-I notice as mandated under rule 7 of the rules vitiates the entire proceedings. Form-I notice was issued on 17.05.2005 and the final order was passed on 05.12.2006, after 1 1/2 years, i.e., after 3 months and hence, the entire proceedings are vitiated.

7.Further, it is seen that earlier, the market value of the property was fixed at Rs.2,00,000/- per acre. The second respondent, without giving any reason, fixed the market value at Rs.9,00,000/- per acre and the third respondent has also confirmed the same on the basis of the future development of the land.

8.In a judgment rendered by the Hon'ble Division Bench of this Court in the case of Special Deputy Collector (Stamps), Chennai Collectorate, Singaravelar Maligai, Chennai, Vs. Thajunnisa and others reported in (2015) 6 MLJ 129, it has been held as follows:-

> " "10. It is to be borne in mind that the Deputy Inspector General of Registration's Report dated 22.03.2002 does not indicate any conclusion which was arrived at to the effect that the Respondents/Petitioners lands in question were not agricultural lands. Just because the lands in question are having the potential of being converted as house sites in future, the authorities in this regard cannot allow their imagination to run riot or to indulge in assumptions, presumptions, surmises and conjectures etc., in the considered opinion of this Court. Even the Suo Moto power as envisaged under Sub Section (3) of the Section 47(A) of the Indian Stamp Act ought to have been exercised within two years from the date of Registration of the documents. As a matter of fact, the Suo Moto power of revision should have been exercised well before 11.04.1999 not at a later point of time. As such, it is candidly clear that the impugned order dated 08.04.2002 is without jurisdiction whatsoever and resultantly, Form II notices issued were invalid and illegal in the eye of law."

9.The property shall be registered on the basis of the guideline value as per its classification and nature of the property and not on the basis of the future development. Such determinations are bad in law. Further as contemplated under Rule 11A of the above said Rules, the first respondent has not conducted any inspection and he delegated his power to his subordinate.

10.In such circumstances, this Court in C.M.A.No.2820 of 2012 dated 05.06.2015, cited supra, wherein it has been held that the authority could not delegate the powers. The relevant paragraphs of the said judgment reads as under:

> 17. "The Authority conferred with certain functions under a statute has to carry out the same on its own such function

and cannot delegate the same to another in the absence any contemplation for such delegation under the Act. In the present case, under rule 4 (3) (c) and rule 11-A of the rules, 2nd respondent-Collector and the first respondent Inspector General of Registration respectively, have to inspect the property and there is no enabling provision under the rules or under the Act to delegate such power. Therefore, inspections by other officers at the behest of the respondents vitiate the entire proceedings.

19. The impugned order has been passed by the first respondent purely based on inspection reports of the District Registrar/Deputy Thasildar, who are not authorised under the Act and hence the said inspection reports are not materials collected by the authorities, entitled under the Act. Hence, the proceedings of the second respondent and first respondent are vitiated."

11.From the discussions, it can be inferred that the entire proceedings stand vitiated for violation of Rule 7, 11-A and principles of natural justice.

12. Therefore, the impugned order dated 16.08.2011 in Pa.Mu. No.44710/N2/20 passed by the third respondent/Inspector General of Registration, Chennai, is set aside.

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

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cla

To

1. The Sub Registrar, Sathiyamangalam,
   Sathi Taluk, Erode District.

2. The District Revenue Officer,
(Stamps), Collectorate,
Coimbatore 641 018.

3. The Chief Controlling Revenue Authority/
Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

+1cc to Mr.V.Nicholas, Advocate, S.R.No.8277
+1cc to the Spelcial Government Pleader, S.R.No.8566

C.M.A.No.3227 of 2011
and M.P.No.1 of 2011

mr(co)
cs/10/05/18