IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.3306 of 2011
and M.P.No.1 of 2011

1. C.Marappan
2. R.Rangaraju
3.K.Palanisamy ... Appellants/Appellants

Vs.

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

2. The Deputy Inspector General of Registration,
Office of the Registration Department,
Coimbatore.

3. The District Revenue Officer (Stamps),
District Collector Office,
Coimbatore - 641 018.

4. The Joint Registrar,
Office of the Coimbatore
District Registration,
Coimbatore. ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, against the order dated 12.08.2011 in proceedings Pa.Mu.No.31667/N2/2008 received by the appellants on 22/08/2011 passed by the Inspector General of Registration-cum-Chief Controlling Revenue Authority, Chennai, confirming the order of the 3rd respondent by proceedings dated 14.07.2008 in Mu.Pa.No.2354/ C/2006.

For Appellants : Mr.P.Savavana Sowmiyan

For Respondents: Mr.M.Venkadesh Kumar
Government Advocate (C.S)

J U D G M E N T

The present appeal is directed against the order passed by the Inspector General of Registration, Chennai/1st respondent, dated 12.08.2011 in proceedings Pa.Mu.No.31667/N2/2008.

2. The appellants have purchased an agricultural land and registered vide Document No.4680/2006, which was referred by the 4th respondent/Joint Registrar, Coimbatore, for proper valuation under Section 47-A(1) of the Indian Stamp Act, 1908, to the 3rd respondent/ District Revenue Officer (Stamps), Coimbatore. The 3rd respondent has conducted the site inspection and redetermined the value of the property at Rs.325/- per sq.ft and demanded deficit stamp duty and the registration charges, against which, the appellants preferred an appeal under Section 47-A(5) of the said Act, which was disposed of by the 1st respondent on 12.08.2011, which is under challenge in this Civil Miscellaneous Appeal.

3. According to the learned counsel appearing for the appellants, the order passed by the 1st respondent is without application of mind and in violation of statutory provisions with regard to redetermination of the market value of the property and violative of principles of natural justice.

4. Per contra, the learned Government Advocate appearing for the respondents would submit that even though the appellants have sought to register the property as an agricultural land, they themselves have valued at square feet rate. The location of the property is in a commercial area and on inspection, it was found that no agricultural activities are going on and therefore, considering the guideline value of Rs.471/- per sq.ft, which was prevailing on the date of registration, the authorities have redetermined the market value at Rs.325/- per sq.ft. Therefore, the order passed by the 1st respondent is justified and it does not require any interference.

5. Heard the learned counsel appearing for both parties.

6. On a perusal of the order passed by the 3rd respondent, it is seen that on the date of his inspection of the property, maize was cultivated and the crops were standing on the land. However, considering the chances of future development of the property, he redetermined the value at Rs.325/- per sq.ft. Even though the appellants have raised a plea that it is an agricultural property and they have cultivated crops over the same, there is no discussion as to the grounds raised by the appellants by the 1st respondent.

7. On the other hand, the 1st respondent has relied on the reports submitted by the District Registrar, Coimbatore, as well as the Deputy Inspector General of Registration, Coimbatore, with regard to market value of the property.

8. As per Rule 11-A of the Tamil Nadu (Prevention of Under Valuation of Instruments) Rules, 1968, it is mandated that the appellate authority while deciding the appeal shall conduct spot inspection under notice to the parties concerned. Rule 11 (A) of the said Rules reads as 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 of authority under the Government or the local authority; and
>
> (c) inspect the property after due notice to the parties concerned.

9. In a similar circumstance, this Court 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) has held as follows:-

> 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."

10. The appellate authority shall not confer his power to the subordinate authorities. Even assuming that an inspection was caused to be done by another officer, the principles of natural justice requires that the copies of the report to be furnished to the appellants. If it fails to do so, it would amount to violation of principles of natural justice.

11. A judgment of 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, wherein, it has been categorically held that the classification of the land and the nature of user, on the date of registration shall be taken as criteria for fixing the market value. But, the authority shall not fix the value on the basis of future development. The relevant paragraph of the said judgment is extracted hereunder:-

> "10.... 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."

12. In the instant case, considering the location, existence of commercial establishment, access to the property and other salient features, the 1st respondent confirmed the value fixed by the 3rd respondent and the order passed by the 1st respondent is without assigning any reasons.

13. In such circumstances, this Court is persuaded to agree with the contention of the learned counsel appearing for the appellants that the impugned order came to be passed without application of mind in violation of principles of natural justice and contrary to Rule 11-A of the said Rules. Therefore,

the order passed by the 1st respondent/Inspector General of Registration, dated 12.08.2011 in proceedings Pa.Mu.No.31667/N2/2008 is set aside and accordingly, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

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

2. The Deputy Inspector General of Registration,
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Coimbatore.

3. The District Revenue Officer (Stamps),
District Collector Office,
Coimbatore - 641 018.

4. The Joint Registrar,
Office of the Coimbatore
District Registration,
Coimbatore.

Copy TO

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

+1cc to Mr.P.Saravanasowmiyan, Advocate SR.No.9865
+1cc to Government Pleader SR.No.9921

C.M.A.No.3306 of 2011
and M.P.No.1 of 2011

GJ(CO)
GN(20/03/2018)