IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.3627 OF 2011
AND M.P.NO.1 OF 2011

Kottai G.Nagayyan ... Appellant

Vs.

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

2.The District Revenue Officer (Stamps)
Chennai Collectorate
Singaravelar Maaligai,
Rajaji Salai, Chennai - 600 001.

3.The Sub Registrar
Villivakkam,
Chennai - 600 049. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47A(10) of the Indian Stamp Act, 1899, read with Rule 12 of the Tamil Nadu Stamps (Prevention of Undervaluation) Rules, 1968, with a prayer to set aside the order of the first respondent whereby the land value fixed by the second respondent has been confirmed and direct the respondents to accept the value of the appellant as set forth in the sale deed bearing Document No.2253 of 1996 in the Office of the third respondent.

For Appellant : Mr.B.K.Sreenivasan

For Respondents : Mr.M.Venkadeshkumar
Government Advocate (CS)

J U D G M E N T

Aggrieved over the order passed in the appeal by the first respondent herein, the appellant preferred the present Civil Miscellaneous Appeal.

2. According to the appellant, on the date of registration i.e., during October 1995, the value of the property was only Rs.150/- per sq.ft. Thereafter, it was referred under Section 47-A(1) of the Indian Stamp Act, 1899, to the second respondent, for determination of the market value. The second respondent has found that the market value at the relevant period of time was Rs.166/- per sq.ft. But, however, fixed the value at Rs.265/- per sq.ft., taking into account the market value of the Park Road, through which there was an access to the property of the appellant. Aggrieved over the same, the appellant preferred an appeal before the first respondent. According to the appellant, the value determined by the second respondent was very high. However, the first respondent has also confirmed the order of the second respondent. Complaining of the delay in passing the final order, as well as violation of the rules, the appellant is before this Court.

3. Per contra, the learned Government Advocate (CS) would submit that the property is situated in a posh locality and the guideline value was revised as Rs.533/- per sq.ft. However, considering the guideline value of U.R.Street at Rs.166/- per sq.ft., and Park Road at Rs.332/- per sq.ft., the second respondent has fixed the market value of the property at Rs.265/- per sq.ft., which is very much reasonable and hence, the order need not be interfered with.

4. Heard the submissions made on either side and perused the materials available on record.

5. On a perusal of the materials available before this Court, it is seen that notice in Form - I was issued by the second respondent on 08.08.1996. However, final order came to be passed only on 07.03.2003, after complying with the procedures laid down under Rules 4 and 6 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 (shortly "the Rules). The order was not passed within three months as specified under Rule 7 of the Rules, from the date of first notice. No notice of inspection appears to have been given to the parties.

6. Further, as per Rule 11-A of the Rules, the appellate authority, for the purpose of deciding an appeal, shall inspect the property, after due notice to the parties. As long as the mandatory requirement of inspection after notice to the parties as provided under Rule 11-A of the Rules is not adhered to, the order passed by the appellate authority will stand vitiated.

7. In the instant case, the appellate authority caused the Deputy Inspector General of Registration to conduct inspection and passed orders on the basis of the inspection report

submitted by him. In similar circumstances, this Court in its judgment in S.SANTHI VS. THE CHIEF REVENUE CONTROLLING AUTHORITY & INSPECTOR GENERAL OF REGISTRATION, CHENNAI AND TWO OTHERS [C.M.A.NO.2820 OF 2012 DATED 05.06.2015] 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.
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> 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.
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> 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."

8. As per the above judgment, the appellate authority has no power to sub-delegate. In such circumstances, this Court is inclined to set aside the order passed by the first respondent dated 07.03.2003 and remit the matter back to the first respondent for fresh consideration in conformity with Rule 11-A of the Rules and other provisions of the statute.

9. The learned Government Advocate (CS) would submit that the Government has announced "SAMADHAN SCHEME" in G.O.Ms.No.189, Commercial Taxes and Registration (J1) Department, dated 29.12.2017 and as per clause 5 of the notification in the appendix to the said Government Order "in respect of which appeals have been preferred to the High Court under Sub-section (10) of the said section 47-A of the Indian Stamp Act and are pending in the High Court as on 8th June 2017" are covered by the Scheme.

10. In the light of the above, the order dated 07.03.2003 passed by the first respondent is hereby set aside. It is open to the appellant either to avail the benefits under SAMADHAN SCHEME or to contest the matter on merits before the first respondent.

11. The Civil Miscellaneous Appeal is ordered in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

TK
To

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

2.The District Revenue Officer (Stamps)
Chennai Collectorate, Singaravelar Maaligai,
Rajaji Salai, Chennai - 600 001.

3.The Sub Registrar
Villivakkam, Chennai - 600 049.

4.The Section Officer,
VR Section, High Court, Madras (2 Copies)

+1cc to Mr.B.K.Sreenivasan , Advocate, S.R.No.6505
+1cc to the Special Government Pleader, S.R.No.6553

C.M.A.NO.3627 OF 2011

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