IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 31-01-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.546 OF 2011

V.Sukumar ...Appellant

-vs-

1.The Inspector General of Registration cum
The Chief Controlling Revenue Authority,
Chennai - 28.

2.The Special Deputy Collector (Stamps),
Cuddalore.

3.The District Registrar (Admn),
Villupuram. ...Respondents

Appeal against the order, dated 14.12.2010, passed in Pa.Mu.No.3196/N3/2008, on the file of The Inspector General of Registration cum The Chief Controlling Revenue Authority, Chennai.

For appellant : Mr.N.Suresh
For respondents: Mr.S.Jaganathan, Govt.Advocate (CS)

J U D G M E N T

Appellant is the purchaser of the house property. He valued the property at Rs.107/- per sq.ft. When the appellant presented the document, the third respondent referred it for redetermination of the market value under Section 47-A (1) of the Indian Stamp Act to the second respondent. The second respondent, based on his site inspection as well as the inquiry made through the residents of the area, has fixed the value at Rs.180/- per sq.ft. The assessment made by the second respondent was also based on registered sale deeds, bearing Nos.1036/2003, 1423/2005 and 2556 of 2006. On the basis of material documents, the second respondent has assessed the value and passed the order on 26.11.2007. Aggrieved over the said order, the appellant preferred an appeal to the first respondent. The first respondent, based on the inspection report of the second respondent, confirmed the order passed by the second respondent, in his proceedings Pa.Mu.No.3196/N3/2008, dated 14.12.2010. The said order is under challenge in this appeal.

2. According to the learned counsel for the appellant, the value was assessed by the authority on the basis of the inquiry made with the local residents and not based on the actual inspection and without application of mind; the appellate authority has also failed to conduct site inspection, before deciding the appeal; and, therefore, the order impugned is liable to be set aside.

3. Per contra, learned Government Advocate, appearing for the respondents, would contend that the guideline value at the relevant point of time was Rs.180/- per sq.ft.; the second respondent had relied on registered documents and, after site inspection, arrived at the finding that the market value of the property was at Rs.180/- per sq.ft.; on appeal, the appellate authority, namely, first respondent also concurred with the finding of the second respondent; the impugned order is based on relevant material; and, therefore, it need not be interfered with.

4. On a perusal of the impugned order, it is seen that the first respondent, as required under Rule 11-A of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, has not conducted site inspection. But, on the contrary, he deputed the District Registrar, Villupuram, to conduct site inspection. It is well settled in very many cases that the first respondent has no power to delegate the powers conferred on him to anyone else.

5. In similar circumstances, this Court 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."

6. In the instant case, the first respondent has delegated his power to the District Registrar, who is not at all an authority under the Indian Stamp Act. Since it is categorically held that the delegation of powers to subordinate by the first respondent, that too, in favour of the District Registrar, is bad, the impugned order passed by the first respondent is also not sustainable in the eyes of law.

7. The learned Government Advocate 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, wherein, the appeals pending before the High Court as on 08.06.2017 under Section 47-A (10) of the Indian Stamp Act,1899, are also covered; and, therefore, it is open to the appellant to approach the authority to avail the benefits of the Scheme.

8. In such circumstances, the impugned order passed by the first respondent in his proceedings in Pa.Mu.No.3196/N3/2008 dated 14.12.2010 is set aside and the matter is remitted back to the first respondent for consideration under SAMADHAN SCHEME. If at all it is not feasible to consider under the said Scheme, it is open to the first respondent to consider the appeal on merits and in accordance with Rule 11-A of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968.

9. The Civil Miscellaneous Appeal is allowed with the above observation and direction. No costs. Consequently, the connected M.P.No.1 of 2011 is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

dixit/tk

To

1.The Inspector General of Registration cum
   The Chief Controlling Revenue Authority,
   Chennai - 28.

2.The Special Deputy Collector (Stamps),
   Cuddalore.

3.The District Registrar (Admn),
   Villupuram.

+ 1 cc to Mr. N. Suresh, Advocate Sr.8066
+ 1 cc to Mr. Special Government Pleader SR.7235

C.M.A.No.546 OF 2011

SPD(CO)
EU(09/11/2018)