IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.3356 of 2014
and M.P.No.1 of 2014

M.Arvind ... Appellant/Appellant

Vs.

1.The Chief Controlling Revenue
Authority -cum-
Inspector General of Registration,
Chennai - 600 028.

2.The Special Deputy Collector (Stamps)
-cum- District Revenue Officer,
Chennai -1.

3.The Sub Registrar,
Ambattur Sub Registrar Office,
Ambattur.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 47-A(10) of the Indian Stamp Act, 1899, against the order of the Chief Controlling Revenue Authority cum Inspector General of Registration, Chennai dated 07.01.2014 in Proceedings No.20631/N1/2012.

For Appellant : Mr.P.Sivakumar

For Respondent : Ms.A.Madhumathi
Addl Government Pleader

J U D G M E N T

Aggrieved over the order passed by the first respondent, the Chief Controlling Revenue Authority-cum-Inspector General of Registration, Chennai, in Proceedings No.20631/N1/2012, dated 07.01.2014 the present Civil Miscellaneous Appeal came to be filed.

2. The appellant registered the property by document No.4428 of 2008 before the office of the third respondent. The third respondent has referred the documents for determination of market value under Section 47(A)(1) of the Indian Stamp Act,

1899 to the second respondent. The second respondent fixed the guide-line value based on the documents at Rs.400/- per sq.ft. Aggrieved by which, the appellant preferred an appeal before the first respondent and the same was confirmed by order dated 07.01.2014. Challenging the order passed by the first respondent, the appellant is before this Court by way of filing this appeal.

3. The learned counsel for the appellant submitted that the District Revenue Officer fixed the market value of the land in question at Rs.400/- per sq.ft. The learned counsel brought to the notice of this court the Column No.10 of the impugned order to show that the value of the land has been fixed based on the recommendations of the District Revenue Officer (Stamps). Further, the first respondent relied on the report submitted by the District Registrar (Administration), who has no authority under Rule 11-A of Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. It is mandated that the appellate authority ought to have conducted the inspection after issuance of due notice to the parties and he could not delegate his power to his subordinates.

4. The learned Government Advocate (Civil Side) submitted that the first respondent passed the impugned order based on the materials available on record and therefore, the same is sustainable in law.

5. Heard the rival submissions.

6. It is well settled that the District Registrar is an authority under Indian Stamps Act 1899. He is incompetent to conduct inspection or to determine the market value. In any event the appellate authority shall conduct inspection as mandated under Rule 11-A of the Rules. He shall not delegate his powers to his subordinates while deciding an appeal under Section 47(A)(5) of the Act. Sub-delegation of powers is held bad.

7. In similar circumstances, this Court relied on the judgment passed by this Court in C.M.A.No.2820 of 2012 dated 05.06.2015, (S.Shanthi vs. The Chief Revenue Controlling Authority and others) held that the authority cannot delegate the powers. Paragraph No.17 of the said judgment reads as follows:

> "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.

8. In view of the above said judgment, the appellate authority has no right to delegate his power conferred under the Act and therefore, the delegation of power is bad in law.

9. Under Rule 11 (A) of Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules,1968, notice has to be issued to the parties and the same reads as follows:-

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.

10. In the instant case, no notice was given and the order passed by the first respondent is in violation of principles of natural justice and against the statutory provision. In such circumstances, this Court is of the considered opinion that the order passed by the first respondent is unsustainable in law and hence, it is liable to be set aside.

11. Accordingly, the order dated 07.01.2014 in proceedings No.20631/N1/2012 is set aside and the matter is remitted back to the authority concerned for fresh consideration in compliance with Rule 11(A) of Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. The first respondent is directed to pass orders, within a period of three months from the date of receipt of a copy of this order adhering the principles of natural justice by giving notice for the inspection as well as the personal hearing to the parties.

With the above observations and directions, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

cla

To
1.The Chief Controlling Revenue
Authority -cum-
Inspector General of Registration,
Chennai - 600 028.

2.The Special Deputy Collector (Stamps)
-cum- District Revenue Officer,
Chennai.

3.The Sub Registrar,
Ambattur Sub Registrar Office,
Ambattur.

+1 cc to the Special Govt Pleader (CS) High Court,
Madras sr 8565

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aa05/04/2018