IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.Nos.1157 and 1158 of 2009
and M.P.No.1 of 2009

Bayan Bais Wakf Bangalore,
Rep. by its Muthavalli
M.Fuaad Musvee,
129, Greams Road,
Thousand Lights, Chennai - 6. ... Appellant
in C.M.A.No.1157 of 2009

1. Naila Musvee
2. Rubah Musvee
3. Saimah Musvee

Represented by their
Power of Attorneys
M.Fuaad Musvee,
129, Greams Road,
Thousand Lights,
Chennai - 6. ... Appellants
in C.M.A.No.1158 of 2009

Vs.

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

2. The District Revenue Officer (Stamps),
Collectorate Office,
5th Floor, Singaravelar Maligai,
Rajaji Salai, Chennai - 1. ... Respondents
in both C.M.As.

Prayer in both C.M.As.: Civil Miscellaneous Appeal filed under Section 47-A of the Indian Stamp Act, 1899, against the order dated 06.01.2009 in proceedings No.48788/N5/04 passed by the Inspector General of Registration-cum-Chief Controlling Revenue Authority, Chennai, in confirming the order in Na.Ka.Ci.Pa.168/02 dated 30.07.2004 on the file of the 2nd Respondent.

For Appellant : Mr.V.Raghavachari

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

C O M M O N   J U D G M E N T

Aggrieved over the order dated 06.01.2009 made in proceedings No.48788/N5/04 by the Inspector General of Registration-cum-Chief Controlling Revenue Authority, Chennai/1st respondent, the appellant has come before this Court with this Civil Miscellaneous Appeal.

2. The appellant presented the documents for registering the same. The Sub-Registrar had referred the documents under Section 47-A(1) for redetermining the market value of the property to the 2nd respondent/ the District Revenue Officer (Stamps), Chennai, who in turn has issued notices in Form-I and Form-II under Rules 4 and 6 and passed final orders in the year 2004. Against which, the appellant preferred an appeal to the 1st respondent. The market value redetermined by the 2nd respondent was Rs.10,700/- per sq.ft., whereas, the 1st respondent redetermined the market value of the properties as Rs.10,930/- per sq.ft.

3. According to the appellant, the 1st respondent has no jurisdiction to enhance the market value of the property in an appeal preferred by him under Section 47-A(5) of the Indian Stamp Act, 1899. Secondly, the 1st respondent has not applied his mind with respect to the value of the adjacent property fixed at Rs.6,183/- per sq.ft. No reasoning was given by the 1st respondent on these aspects. The 1st respondent has not adhered to the procedure laid down under Rule 11(A) of Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968, and therefore, the impugned order is liable to be quashed.

4. On the other hand, the learned Government Advocate would submit that since the property is situated in Anna Salai, the value of the property is very high and the assessment made by the 1st respondent is very much correct and reasonable.

5. Heard the rival contentions made by the counsel appearing for both parties.

6. As per Rule 11-A of Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968, the appellate authority has to follow the certain procedures. 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.

7. The appellate authority must conduct the site inspection under notice to the parties concerned. He shall also take into consideration the statements, information or record from the public office or any legal authority and record their statements and conduct the inspection of the property before redetermining the market value. But, he relied on the report of the District Revenue Officer (Stamps) and also called for the reports from the District Registrar. The District Registrar is not an authority under the Indian Stamp Act. The 1st respondent, as specified under Rule 11-A of the said Rules, is expected to conduct the site inspection by himself and there is no provision in the statute enabling him to delegate his powers. But, he delegated the power to the District Registrar, who is not an authority under the Indian Stamps Act, 1899.

8. Further, in the process of redetermination no notice of inspection was given to the presentant of the documents. Non issuance of notice is concerned, it amounts to violation of principles of natural justice, as it is a mandatory procedure. The appellate authority, while deciding appeals under Section 47-A(5) of the Act has power to scrutinise the correctness of the order passed by the District Collector. He cannot exceed this power and exercise the powers conferred on him under Section 47-A(6) to revise the value of the property. To be precise he has no power to enhance the market value on the basis of site inspection done by him. In the instant case, the appellate authority enhanced the market value on the basis of the report of the District Registrar, which not sustainable in law.

9. Hence, I have no hesitation to set aside the order dated 06.01.2009 in proceedings No.48788/N5/04 passed by the Inspector General of Registration-cum-Chief Controlling Revenue Authority, Chennai/1st respondent and accordingly, it is set aside. The matter is remitted back to the 1st respondent for fresh consideration in adherence of Rule 11-A and other statutory provisions under the Indian Stamp Act, 1899. The 1st respondent is directed to complete the case within a period of three months from the date of receipt of a copy of this order.

10. With the above directions, these Civil Miscellaneous Appeals are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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

2. The District Revenue Officer(Stamps),
Collectorate Officer, 5th Floor,
Singaravelar Maligai, Rajaji Salai,
Chennai-1.

+ 1 cc to MR. V. Raghavachari, Advocate Sr.7405
+ 1 cc to the Government Pleader Sr.8554 & 8553

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EV(CO)
EU(13/04/2018)