IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1176 of 2013
and M.P.No.1 of 2013

R.Sivaraman ... Appellant

Vs.

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

2. The District Registrar,
   Periakulam,
   Theni District.

3. The Sub-Registrar-I,
   Periakulam,
   Theni District.

4. The Special Deputy Collector (Stamps),
   Madurai. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, against the order dated 21.12.2012 in proceedings Pa.Mu.No.50159/N4/2008 passed by The Chief Controlling Revenue Authority cum the Inspector General of Registration, Chennai.

For Appellant : Mr.T.Srinivasaraghavan
For Respondents : Mrs.A.Madhumathi,
Addl.Government Pleader.

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 21.12.2012 in proceedings Pa.Mu.No.50159/N4/2008.

2. The appellant has purchased an agricultural land and got it registered on the file of Sub-Registrar-I, Periakulam,

vide Document No.668/2004, which was referred for property valuation under Section 47-A(1) of the Indian Stamp Act to the 4th respondent/ Special Deputy Collector (Stamps), Madurai. The 4th respondent has conducted site inspection and redetermined the value of the property and demanded deficit stamp duty and the registration charges, against which, the appellant preferred an appeal under Section 47-A(5) of the said Act, which was disposed of by the 1st respondent on 21.12.2012, which is under challenge in this Civil Miscellaneous Appeal.

3. According to the learned counsel appearing for the appellant, 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 Additional Government Pleader appearing for the respondents would submit that even though the appellant has sought to register the property as an agricultural land, the respondents themselves have valued the same at square foot rate. The location of the property is in a commercial area and on inspection, it was found that no agricultural activities were going on and therefore, considering the guideline value, which was prevailing on the date of registration, the authorities have redetermined the market value at Rs.13,080/- per cent. 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 4th respondent, it is seen that on the date of his inspection of the property, crops were standing on the land. However, considering the chances of future development of the property, he redetermined the value. Even though the appellant has raised a plea that it is an agricultural property and he has cultivated crops over the same, there is no discussion as to the grounds raised by the appellant by the 1st respondent.

7. On the other hand, the 1st respondent has relied on the reports submitted by the District Registrar, Theni, as well as the Deputy Inspector General of Registration, Madurai, 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 delegate his power conferred on him by the statute, without there being any enabling provision, to the subordinate authorities. Even assuming that an inspection was caused to be done by another officer, the principles of natural justice require that the copies of the report are 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 4th 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 appellant 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 21.12.2012 in proceedings Pa.Mu.No.50159/N4/2008 is set aside and, accordingly, this Civil Miscellaneous Appeal is allowed. The matter is remitted back to the first respondent for fresh consideration in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

dixit

To

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

2.The District Register,
Periakulam, Theni District.

3.The sub Register - I,
Periakulam, Theni District.

4.The Special Deputy Collector (Stamps),
Madurai.

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

+1cc to Mr.J.Srinivasaraghavan, Advocate SR.No.8031

C.M.A.No.1176 of 2013

KJI(CO)
GN(23/04/2018)