IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 29-01-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1496 OF 2006

N.Ramaswamy ...Appellant

-vs-

1.Chief Controlling Revenue Authority,
120, Santhome High Road,
Chennai-28.

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

3.Joint Sub Registrar-II,
Namakkal. ...Respondent

Appeal against the order, dated 04.02.2006, passed in No.31987/N2/2005, by the Chief Controlling Revenue Authroity, Chennai, confirming the order of the second respondent made in SR.No.556 of 1999, dated 14.09.2004.

For appellant : Mr.C.Gunasekaran,
for Mr.V.Krishnan.

For respondents : Mr.Venkadesh Kumar,
Govt.Advocate (CS)

JUDGMENT

This appeal is preferred against the order passed by the Chief Controlling Revenue Authority, Chennai, dated 04.02.2006.



2. According to the appellant, the first respondent has failed to pass the order in accordance with Rule 11-A of the Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules,1968, in short, "the Rules"; and that the authority has neither recorded the reasons nor followed the principles of natural justice, as mandated under Rule 11-A, mentioned above, while passing the order.

3. On perusal of the impugned order, it is seen that the first respondent has not followed the mandates of Rule 11-A of the Rules, but, merely passed the order on the basis of the report submitted by the Deputy Inspector General of Registration. While doing so, the materials relied upon by him were neither discussed in the order nor appeared to have been furnished to the appellant. 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 1st 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.
>
> 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 11/2 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 1st 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 2nd respondent and 1st respondent are vitiated."

Therefore, the order passed by the first respondent is in violation of Rule 11-A of the Rules and it is, accordingly, set aside, remanding the matter for fresh consideration.

4. Learned Government Advocate appearing for the Department 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, under which, the appeals pending before the High Court are also covered.

5. In such circumstances, it is open to the appellant to approach the first respondent to avail the benefits of Samadhan Scheme. On such approach, the first respondent is directed to consider the case of the appellant for remission of stamp duty, in accordance with law.

6. Civil Miscellaneous Appeal is allowed. No costs. Consequently, the connected C.M.P.No.6678 of 2006 is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

dixit

To

1. Chief Controlling Revenue Authroity,
Santhome High Road, Chennai,

2. The Special Deputy Collector, Namakkal.

3. The Joint Sub Registrar-II, Namakkal.

+ 1 cc to MR.V. Krishnan, Advocate Sr.6309
+ 1 cc to Government pleader Sr.6558

C.M.A.Nos.1496 OF 2006

KS(CO)
EU(18/04/2018)