IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2213 of 2010
and M.P.No.1 of 2010

S.Chandrasekaran ... Appellant/ Appellant

Vs.

1. Special Deputy Collector
(Stamps), Cuddalore 607 001.

2. Sub-Registrar, Joint-II,
Cuddalore 607 002.

3. The Inspector General of Registration,
Chennai. ... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under sub-Section (10) of Section 47-A of the Indian Stamp Act, 1899 read with Rule 9 of the Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968 pleased to set aside the order of the third respondent in his proceedings Pa.Mu.No.4627/N3/07 dated 10.06.2010 modifying the order passed by the first respondent in his proceedings Si.Pa.No.545/2006-2007 dated 18.12.2006.

For Appellant : Mr.D.Baskar

For Respondents : Mr.S.Jaganathan,
Government Advocate

J U D G M E N T

The appellant has preferred this Civil Miscellaneous Appeal against the order passed by the third respondent vide proceedings dated 10.06.2010.

2. According to the appellant, he purchased an agricultural land and presented the document before the second respondent for registration. The second respondent, in turn, referred the same for determination of market value under Section 47-A(1) of the Indian Stamp Act (shortly "the Act") to the first respondent. The first respondent, after following the procedures, determined the market value of the property at Rs.1,42,767/-. Aggrieved over the same, the appellant preferred an appeal under Section

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

47-A(5) of the Act, to the third respondent / appellate authority. The third respondent/appellate authority, relying on the report submitted by the Deputy Inspector General of Registration and District Registrar, fixed the market value at Rs.450/- per sq.ft.

3. On perusal of the documents presented before this Court, it could be seen that the power of attorney was given in favour of one Karthikeyan and Gnanavel. In the said power of attorney, it is categorically stated that the property is a vacant plot. Whereas, the appellant would contend that the property is an agricultural land. But, on inspection, it is seen that the property is surrounded by house-sites and commercial establishments. However, as required under Rule 11-A of the Tamil Nadu Stamp (Protection of under violation of Instruction) Rules, 1968 (shortly "the Rules") the third respondent has not conducted site inspection of the property. On the other hand, he delegated his powers to the District Registrar, Cuddalore, for conducting site inspection. On the basis of the report submitted by the District Registrar, he fixed the market value of the property considering its future development, at Rs.450/- per sq.ft.

4. It is well settled that while determining the market value of the property, it shall be considered on the basis of the nature and classification of the land, on the date of registration. But, in the instant case, the land appears to be vacant plot, measuring an extent of 3325 sq.ft. The appellant would claim that it is an agricultural land. Had the third respondent conducted site inspection, it could have been found as to whether it is an agricultural land or a house-site. In the instant case, the third respondent has delegated the powers to District Registrar, who is not an Officer under Indian Stamp Act.

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

WEB COPY

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 1 1/2 years, i.e., after 3 months and hence the entire proceedings are vitiated.

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."

Therefore, the delegation of powers to the District Registrar and the decision taken on the basis of his report is not all sustainable in the eyes of law.

6. Therefore, the impugned order passed by the third respondent in his proceedings in Pa.Mu.No.4627/N3/07 dated 10.06.2010 is set aside and the matter is remitted back to the third respondent for fresh consideration. The third respondent is directed to consider the appeal preferred by the appellant, as per Rule 11-A of the Rules and the judgments cited above, within a period of three months from the date of receipt of a copy of this order. It is open to the appellant to avail the benefit under "Samadhan Scheme" as per G.O.Ms.No.189, Commercial Taxes and Registration (J1) Department, dated 29.12.2017, if he chooses to do so.

WEB COPY

7. In the result, this Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dpq/tk

To

1. The Special Deputy Collector
(Stamps), Cuddalore 607 001.

2. Sub-Registrar, Joint-II,
Cuddalore 607 002.

3. The Inspector General of Registration,
Chennai.

+1cc to Mr.R.Gururaj, Advocate, S.R.No.7645

+1cc to the Spl Government Pleader, S.R.No.7236

C.M.A.NO.2213 OF 2010

RJ(CO)
GSP(29/10/2018)

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/