IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 08-02-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1790 OF 2013

Tmt.Manjula ... Appellant

-vs-

1.The Chief Controlling Revenue Authority-
cum- Inspector General of Registration,
Santhome High Road,
Chennai-600 0004.

2.The District Revenue Officer (Stamps),
Coimbatore.

3.The Sub-Registrar,
Ganapathy,
Coimbatore District ... Respondents

Appeal against the order, dated 28.07.2010, passed in Proceedings Pa.Mu.No.48475/N2/2008, on the file of The Chief Controlling Revenue Authority- cum - Inspector General of Registration, Chennai as against the order of the District Revenue Officer(Stamps), Coimbatore, Mu.pa.NO.5780/C/2001 dated 29/06/2005.

For appellant : Mr.C.Prakasam

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

JUDGMENT

Aggrieved over the order passed by the first respondent-Inspector General of Registration, dated 28.07.2010, the appellant is before this Court.

2. According to the appellant, she presented the document for registration of her property before the Sub-Registrar, Ganapathy, and he referred the same to the second respondent under Section 47-A (1) of the Indian Stamp Act,1899, for determining the market value of the property; the second

respondent passed orders on 29.06.2005; against which, an appeal was filed before the first respondent, and the said appeal came to be disposed of on 28.07.2010. Aggrieved over the order passed by the first respondent, the present appeal came to be preferred by the appellant.

3. On a perusal of the impugned order passed by the first respondent, it is noticed that the order came to be passed on the basis of the report issued by the District Registrar. It is well settled by various decisions of this Court that the District Registrar is the authority under the Registration Act, but not under the Indian Stamp Act and that any decision taken on the report of the District Registrar is not sustainable in law in so far as the proceedings under Section 47-A of the Indian Stamp Act are concerned. Further, Rule 11-A of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules,1968, 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 or authority under the Government or the local authority; and
>
> (c) inspect the property after due notice to the parties concerned."

4. As per the above Rule 11-A, it is a mandatory requirement and a duty is cast upon the first respondent to conduct site inspection, after giving notice to the parties concerned. In the instant case, he has failed to conduct site inspection and, on the other hand, he has delegated his power to District Registrar. This Court, in a decision in C.M.A.No.2820 of 2012, dated 05.06.2015, has discussed the issue in this regard. Paragraph 17 of the said decision reads as under :

> "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."

For this reason, the impugned order passed by the first respondent is set aside and the matter is remitted back to the first respondent for fresh consideration. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

5. Civil Miscellaneous Appeal is allowed accordingly. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

dixit

To

1.The Chief Controlling Revenue Authority-
cum- Inspector General of Registration,
Santhome High Road,
Chennai-600 0004.

2.The District Revenue Officer (Stamps),
Coimbatore.

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

+1cc to Government Pleader in sr.no.9916

C.M.A.No.1790 OF 2013

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