IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2291 of 2008

M/s.Jai Ram Hi Tech Products
Rep.by its Partner M.Amarapathy,
113, Tiny Sector,
Ekkattuthangal,
Chennai 600 097. ... Appellant

Vs.

1. The Tamil Nadu Chief Revenue Controlling Authority Cum Inspector General of Registration, Santhome, Chennai - 600 028.

2. The District Revenue Officer (Stamps) District Revenue Officer's Office (Stamps) Collectorate, 5th floor, Singaravelar Maligai, Rajaji Salai, Chennai 600 001.

3. The Sub Registrar Adyar, Chennai - 600 020.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under sub-Section (10) of Section 47-A of the Indian Stamp Act, 1899 against the order dated 30.11.2004 made in No.34282/No.1/2004 on the file of the Tamil Nadu Chief Revenue Controlling Authority Cum Inspector General of Registration, Chennai 600 028 served on the appellant on 10.12.2004.

For Appellant : Mr.V.P.Sengottuvel & Mr.D.Selvaraj
For Respondents: Mr.S.Jaganathan Government Advocate (C.S)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the order dated 30.11.2004 made in No.34282/No.1/2004 on the file of the Tamil Nadu Chief Revenue Controlling Authority Cum Inspector General of Registration, Chennai 600 028 served on the appellant on 10.12.2004.

2. The appellant is the purchaser of Tiny Shed allotted by Tamil Nadu Small Industries Development Corporation Ltd., (SIDCO). The condition No.6 states that if the unit is found closed or not working continuously for six months, action will be taken to take back the area allotted and re-allot the same to whomsoever the SIDCO decides. From the original allottee of SIDCO, the appellant company purchased the property. They presented the sale deed assessing the market value at Rs.637 per sq.ft., whereas the guideline rate was at Rs.1351/-. The documents were referred to the second respondent for fixing the market value of the property. The second respondent redetermined the market value at Rs.1080/- per sq.ft and passed orders on 30.06.2003. Against the order of the second respondent, the appellant had preferred an appeal before the first respondent on 11.08.2003 and the first respondent after getting a report from spot inspection by the Deputy Inspector of Registration, confirmed the order of the second respondent holding that the redetermination of market value by the second respondent is correct and it reflects the true value. Aggrieved over the order of the first respondent dated 30.11.2004, the appellant is before this Court.

3. Heard both sides.

4. From the perusal of the order passed by the first respondent, it is seen that no notice was issued to the appellant before conducting site inspection, as per rule 11(A) of Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968. It is mandatory for the appellate authority to conduct the site inspection after giving notice to the parties. Further the authority shall furnish the materials based on which he proceeds to redetermine the market value of the property to the appellants. Otherwise it will be violative of the principles of natural justice. But in the instant case, the first respondent, while deciding the appeal has not furnished the required material based on which he rendered at a finding and also, without notice of inspection has redetermined the market value.

5. The impugned order reveals that inspection of property was delegated to the Deputy Inspector General of Registration. There is no enabling provision in the statute to delegate the powers conferred on the appellate authority to other officers. In similar circumstances, this Court in CMA No.2820 of 2012 in the case of S.Santhi Vs.The Chief Revenue Controlling Authority, 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.
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> 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 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."

6. Therefore the delegation of the powers and non-adherence of the mandatory procedure specified in Rule 11(A) of Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules 1968, vitiates the entire proceedings of the respondent. Further non-service of notice of inspection of the property amounts to violation of principles of natural justice.

7. The learned Government Advocate would draw the attention of this Court to the "Samadhan Scheme" announced by the Government vide G.O.Ms.189 Commercial Taxation and Registration J1 Department dated 29.01.2017 and in clause 5 of notification appended to the G.O. pendency of appeal as on 08.06.2017 before the High Court under Section 47-A (10) of Indian Stamps Act, were also covered by the Scheme. It is left open to the appellant to avail the benefit of "Samadhan Scheme" as per G.O.Ms.No.189, Commercial Taxes and Registration (J1) Department, dated 29.12.2017.

8. With the above observations, this Civil Miscellaneous Appeal is allowed. No costs.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

dpq

To

1. The Tamil Nadu Chief Revenue
   Controlling Authority Cum Inspector
   General of Registration,
   Santhome, Chennai - 600 028.

2. The District Revenue Officer (Stamps)
   District Revenue Officer's Office (Stamps)
   Collectorate, 5th floor, Singaravelar Maligai,
   Rajaji Salai, Chennai 600 001.

3. The Sub Registrar
   Adyar, Chennai - 600 020.

4. The Section officer
   VR Section, High Court, Madras 104.

+1 CC to Mr.V.P. Sengottuvel, Advocate sr 7092.
+1 CC to Govt. Pleader sr 7239.

C.M.A.No.2291 of 2008

NRL(CO)
SP(26/04/2018)