IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2668 of 2009
and M.P.No.1 of 2009

V. Rajendran ... Appellant/Appellant

Vs.

1. The Chief Controlling Revenue Authority-cum-
Inspector General of Registration,
Tamil Nadu,
No.120, Santhome High Road,
Chennai - 600 028.

2. The Special Deputy Collector (Stamps),
Virudhunagar District.

3. The Sub Registrar,
Srivilliputtor. ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 47-A (1) and (3) of the Indian Stamp Act, 1899, against the order dated 15.05.2009 in proceedings No.Pa.Mu.No.20091/N4/2008 passed by the Inspector General of Registration-cum-Chief Controlling Revenue Authority, Chennai.

For Appellant : Mr.A.Prabakaran

For Respondents: Mr.A.Devnarenderan
Government Advocate (C.S)



J U D G M E N T

Aggrieved over the order 15.05.2009 in proceedings No.Pa.Mu.No. 20091/N4/2008 passed by the Inspector General of Registration-cum-Chief Controlling Revenue Authority, Chennai/1st respondent, the appellant has come before this Court with this Civil Miscellaneous Appeal.

2. The appellant has purchased the housing plot and registered the same vide Document No.5760/2007. The document was referred under Section 47-A(1) of the Indian Stamp Act, 1899, by the Sub Registrar, Srivilliputtor/3rd respondent for valuation to the Special Deputy Collector (Stamps)/ 2nd respondent. The 2nd respondent after issuing notice to the appellant under Rule (4) and (6) of the Tamil Nadu Stamp

(Prevention of under Valuation of Instruments) Rules, 1968, passed the final order on 29.02.2008. Against the order of the 2nd respondent, an appeal was preferred by the appellant before the 1st respondent, which came to be decided on 15.05.2009.

3. The learned counsel appearing for the appellant would submit that the notice of inspection as contemplated under Rule 11-A of the said Rules was not given and the appellant was not put on notice before fixing the market value of the property. Further, the inspection was done by the District Registrar, who is not an authority under the Indian Stamp Act. Therefore, the order passed by the 1st respondent is liable to be quashed.

4. The learned Government Advocate would submit that the property purchased is a housing site, as revealed in the schedule of the sale deed. The property is surrounded by the commercial properties and developed area and therefore, considering the guideline value, the market value was assessed by the 1st respondent. Therefore, the order passed by the 1st respondent is based on relevant materials and on acceptable reasons. Therefore, the order passed by the 1st respondent does not require any interference.

5. Heard the rival contentions made by the learned counsel appearing for both parties.

6. From a perusal of the order passed by the 1st respondent, it is seen that he arrived at a decision in the appeal on the basis of the report submitted by the District Registrar. This Court has repeatedly held that the District Registrar is not an authority under the Indian Stamp Act. 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."

7. This Court has held that the order passed by the 1st respondent on the basis of the report given by the incompetent authority is not sustainable. Further, as per Rule 11-A of the said Rules, it is expected that the appellate authority while deciding the appeal made under Section 47-A(5) of the Act, shall issue notice to the parties concerned and also decide the appeal after furnishing the materials to the appellant. If he fails to do so, it would amount to violation of principles of natural justice.

8. In such circumstances, the order passed by the 1st respondent/ Inspector General of Registration-cum-Chief Controlling Revenue Authority, Chennai, in proceedings No.Pa.Mu.No.20091/N4/2008 dated 15.05.2009 is not sustainable in law and accordingly, it is set aside. The matter is remitted back to the 1st respondent for fresh consideration and the 1st respondent is directed to complete the process within a period of three months from the date of receipt of a copy of this order.

9. In the result, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Special Deputy Collector,
(Stamps) Virudhunagar District.

3. The Sub Registrar,
Srivilliputtor.

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

+ 1 cc to M/s. A. Prabhakaran, Advocate SR.8835

C.M.A.No.2668 of 2009
and M.P.No.1 of 2009

KJ(CO)
EU(10/04/2018)