IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 02-02-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2080 OF 2012

H.Chandralekha ... Appellant

-vs-

1.The Sub-Registrar,
Padappai,
Sriperumbudur Taluk,
Kancheepuram District.

2.The District Revenue Officer,
(Stamps-Chennai),
Office of the District Revenue Officer,
Collectorate V Floor,
Singaravelar Maligai,
No.32, Rajaji Salai,
Chennai-600 001.

3.The Chief Controlling Revenue Authority -cum-
the Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.. .. Respondents

Appeal against the order, dated 14.10.2011, passed in Order No.Pa.Mu.No.69598/N1/2010, on the file of the Inspector General of Registration, Chennai.

For appellant : Mr.S.Murugan

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

JUDGMENT

Aggrieved over the order passed by the third respondent-Inspector General of Registration, dated 14.10.2011, the appellant is before this Court.

2. According to the appellant, she presented the document for registering her agricultural land before the Sub-Registrar, Padappai, and he referred the same to the second respondent under Section 47-A (1) for determining the market value of the property; the second respondent issued notices under Form-I on 26.03.2009; Form-II on 22.10.2010; and passed final orders on 12.11.2010; against which, she preferred an appeal to the third respondent and the same was disposed of on 14.10.2011; and, further aggrieved over the same, she has preferred this appeal.

3. Learned counsel for the appellant would submit that the order passed by the second respondent is vitiated, as it was not passed within three months from the date of first notice, as contemplated under Rule 7 of Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules,1968, in short, "the Rules"; no opportunity was given to the appellant either by the second respondent or by the third respondent, before taking a decision to fix the value of the property and, therefore, he sought that the impugned order passed by the third respondent be set aside.

4. Conversely, the learned Government Advocate, appearing for the respondents, would submit that the third respondent has passed the order relying on the material and after site inspection; both the authorities have conducted site inspection and, based on the guideline value as well as the information from the public, have redetermined the market value of the property; and, therefore, the orders passed by the authorities need not be interfered with.

5. Heard both sides.

6. Admittedly, the first notice under Form-I as per Rule 4 of the Rules was issued on 26.03.2009 and final order was passed on 12.11.2010. In this regard, it is imperative to refer to Rule 7 (1) of the Rules, which reads as under :

> "7. Final order determining the market value:-
>
> (1) The Collector shall, after considering the representations received in writing and those urged at the time of hearing or in the absence of any representation from the parties concerned or their failure to appear in person at the time of hearing in any case after a careful consideration of all the relevant factors and evidence available with him, pass an order within three months from the date of first notice determining the market value of the properties and the duty payable on the instrument, and communicate the order so passed to the parties and take steps to collect the

difference in the amount of stamp duty, if any."

As per the above Rule, the second respondent should have passed the order within three months from the date of first notice i.e., before 26.06.2009, whereas, Form-II notice itself was issued after a lapse of more than one-and-a-half years on 22.10.2010 and the final orders came to be passed on 12.11.2010. This Court, in a decision in C.M.A.No.2820 of 2012, dated 05.06.2015, has elaborately discussed the issues in this regard. Paragraphs 17,18 and 19 of the said decision read 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.
>
> 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.
>
> 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, it is mandatory for the authority to pass orders within three months from the date of first notice, as per Rule 7 (1) of the Rules.

7. A perusal of the impugned order passed by the third respondent also discloses that the third respondent has not conducted site inspection under notice to the parties concerned,

as contemplated under Rule 11-A of the Rules. Rule 11-A of the Rules 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."

When that be so, the third respondent has delegated his duty to the Deputy Inspector General of Registration. As held by the learned Judge of this Court in C.M.A.No.2820 of 2012, referred to above, the third respondent is not empowered to delegate the powers conferred on him. As such, the entire proceedings are vitiated, in view of violation of Rules 7 and 11-A of the Rules. Accordingly, the impugned order passed by the third respondent is not sustainable in law and the same is set aside. The authorities are directed to release the document to the appellant.

8. Civil Miscellaneous Appeal is allowed. No costs. Consequently, the connected C.M.P.No.1 of 2012 is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

dixit

To

The Inspector General of Registration,
Chennai.

+ 1 cc to Mr.S.Murugan Advocate,SR.8542
+ 1 cc to The Special Govt.Pleader(CS), SR.8585

C.M.A.No.2080 OF 2012

pa(co)
nr 24/04/2018