IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.3201 of 2010
and M.P.Nos. 1 and 2 of 2010

R. Devarajan ... Appellant/Purchaser

Vs.

1. The Sub Registrar,
Joint - 2, Coimbatore.

2. The District Revenue Officer (Stamps),
Collectorate, Coimbatore - 641 018.

3. The Chief Controlling Revenue Authority-cum-
The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 038. ... Respondents/Referring Officer & Deciding Authority

3rd Respondent impleaded as party respondent vide order of court dated 25.11.2010 made in MP.2 of 2010.

Prayer : Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, against the order dated 18.06.2010 made in proceedings Pa.Mu.No.47820/E1/2006 passed by the 3rd respondent, the Chief Controlling Revenue Authority-cum-Inspector General of Registration, Chennai. {Pa.Mu.C.Pa.No.449/C/06 dated 15.05.2000 on the file of the District Revenue Officer (Stamps) Coimbatore}

For Appellant : Mr.N.E.A.Dinesh
For Respondents : Mr.M.Venkadesh Kumar
Government Advocate (C.S)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the order dated 18.06.2010 made in Pa.Mu.No.47820/E1/2006 by the Chief Controlling Revenue Authority and the Inspector General of Registration, Chennai, 3rd respondent.

2. The appellant presented a sale deed for registration, which was registered as document No.383/2006, dated 02.02.2006. It was referred by the the Sub-Registrar Joint-2, Coimbatore/1st respondent for redetermination of the market value under Section 47-A(1) of the Indian Stamp Act, 1899, to the District Revenue Officer (Stamps), Coimbatore/2nd respondent and the 2nd respondent redetermined the market value of the property at Rs.37/- per sq.ft and demanded the deficit of stamp duty. The appellant had remitted the amount demanded by the 2nd respondent. Thereafter, the 3rd respondent in his proceedings No.Pa.Mu.No.47820/ 11/06-1, issued notice and called the appellant for personal hearing on 09.12.2009. The appellant appeared before the 3rd respondent and after personal hearing, the impugned order came to be passed on 18.06.2010.

3. According to the appellant, the 3rd respondent has to conduct a spot inspection and arrive at the market value, after giving specific reasons for the same and with subjective satisfaction while passing the orders, that the decision taken by the authorities under Section 47-A(2) and (3) of the said Act, is prejudicial to the interest of the Revenue.

4. But in the instant case, the 3rd respondent has not conducted personal inspection nor recorded any reasons for arriving at this particular rate and that, it is prejudicial to the interest of the Revenue of the State. Therefore, the order passed by the 3rd respondent is sought to be rejected.

5. Per contra, the learned Government Advocate would submit that the 3rd respondent has considered the location and the fertility of the land. The land is adjacent to coconut grove. It is situated near the town and therefore, considering all these things, the market value has been rightly redetermined at Rs.53/- per sq.ft. Therefore, the order passed by the 3rd respondent need not be interfered with.

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

7. On a perusal of the materials on record, it is seen that the proceedings under Section 47-A(6) of the Act was initiated by the 3rd respondent on the recommendation given by the District Registrar (Administration), Coimbatore, of Registration Department. After accepting the recommendation and reports of the Deputy Inspector General of Registration, Coimbatore, and the District Registrar, the 3rd respondent has redetermined the value based on the guideline value at Rs.53/- per sq.ft.

8. While considering the sequences of the action taken by the 3rd respondent, it is crystal clear that the 3rd respondent/Inspector General of Registration, Chennai, has not applied his mind at any point of time. It is well settled that the District Registrar of the Registration Department is not an authority under the Indian Stamp Act, 1899. The District Registrar cannot send a report and the Inspector General of Registration need not rely on the report of the District Registrar, when arriving at his finding. Rule 11-A of the Tamil Nadu (Prevention and 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 of authority under the Government or the local authority; and
>
> (c) inspect the property after due notice to the parties concerned.

9. The Inspector General of Registration, Chennai, before deciding any matter or redetermining the market value of the property shall conduct an inspection of the property, after giving notice to the parties. But, in the instant case, the power was delegated to the Deputy Inspector General of Registration and on the basis of the report of the District Registrar, the decision seems to have been taken by him. Further the inspection reports submitted by them and relied on by the third respondent for determining the market value was not furnished to the appellant. The non-service of notice and non-supply of the materials relied on is violative of principles of natural justice and the impugned order is bad in law.

10. Secondly, whenever decision is taken under Section 47-A (6) suo-motu, the authority is expected to arrive at subjective satisfaction and record the reasons for the same. Obviously, the impugned order does not disclose any reasons for deciding the value of the property at Rs.53/- per sq.ft other than the guideline value indicated in the report.

11. It is also relevant to look into Rule 5 of the above-said Rules, which lays down the principles of determination of market value. There are various parameters mentioned before arriving at market value of the property. But, the Inspector General of Registration, Chennai, has not considered any of these parameters nor dealt with the objection raised by the

appellant before him. But, it is found that based on the materials available on record, the decision was taken. There is no justification assigned for arriving at the decision that it is prejudicial to the interest of the Revenue of the State. In the absence of any reasons and absence of application of mind, the suo motu order of the Inspector General of Registration, Chennai, is vitiated by non-application of mind.

12. In the judgment reported in 2012 (3) CTC 589 (Rajendran Vs. The Inspector General of Registration, Chennai, and two others), this Court has held that while exercising suo-motu power under Section 47-A(6) of the Indian Stamp Act, 1899, the Statute mandates, consideration of the records, in terms of the objective, specifically incorporated in the Section and that the authority should arrive at a subjective satisfaction, as to whether, the order passed under sub-sections (2) & (3) of Section 47-A of the Act, is prejudicial to the interest of Revenue and he must record the reasons for arriving at the satisfaction.

13. But, in the instant case, I do not find any subjective satisfaction arrived at by the authority, much less there was any reason given by the subordinates as the Deputy Inspector General of Registration, Coimbatore, and the District Registrar, Coimbatore, and having set out the same in their reports.

14. Therefore, the order 18.06.2010 made in Pa.Mu.No.47820/E1/2006 by the 3rd respondent/the Chief Controlling Revenue Authority and the Inspector General of Registration, Chennai, is set aside and the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//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 District Revenue Officer (Stamps)
Collectorate, Coimbatore.

3. The Sub Registrar, Joint-2,
Coimbatore.

+1cc to M/s.V.Nicholas, Advocate, S.R.No.8287
+1cc to the Government Pleader, S.R.No.8572

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PPA(CO)
CS/26/03/18