IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.3286 OF 2010
AND MP NO.1 OF 2010

1.P.Ashokumar
2.R.Yogaraj ... Appellants

Vs.

1.The Sub Registrar
Joint . 1, Coimbatore.

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

3.The Chief Controlling Revenue Authority
Inspector General Of Registration
100, Santhome High Road,
Chennai - 600 028.
(3rd respondent impleaded as party
respondent vide order of the Court
dated 03.12.2010 made in M.P.No.2/2010) ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, against the order of the Chief Controlling Revenue Authority and Inspector General of Registration, Chennai, in Ref.Pa.Mu.No.3000/N2/09 dated 26.04.2010 and received on 11.06.2010 confirming the order of the District Revenue Officer (Stamps) Coimbatore in Mu.Pa.No.936, 937/Ko/2005 dated 31.12.2005.

For Appellants : Mr.N.E.A.Dinesh
For Respondents : Ms.A.Madhumathi
Additional Government Pleader(cs)

J U D G M E N T

Aggrieved over the order passed by the Inspector General Of Registration, dated 26.04.2010, the appellant has preferred this Civil Miscellaneous Appeal.

2. According to the appellants, they registered properties vide document Nos.1625 and 1626 of 2005 before the first respondent Sub Registrar. He in turn referred it for redetermination of market value under Section 47-A(1) of the Indian Stamp Act, 1899, to the second respondent. The second

respondent issued notice under Form - I on 24.05.2005 and notice under Form- 2 on 30.09.2005 and passed final orders on 31.12.2005. Against which, the appellants preferred appeals under Section 47-A(5) of the Indian Stamp Act, to the third respondent. The third respondent, on the basis of the report received from the District Registrar, Coimbatore, has revised the market value and directed the appellants to pay the deficit stamp duty. Challenging the said order, the appellants are before this Court.

3. Heard the submissions made on either side and perused the materials available on record.

4. On a perusal of the order passed by the Inspector General of Registration, dated 26.04.2010, it is seen that he had issued notice of hearing on 23.03.2009 and thereafter, relying on the report of the District Registrar, Coimbatore, has redetermined the market value. As already been settled by various judgments of this Court that the District Registrar is an Officer under the Registration Act and he is not an Officer under the Indian Stamp Act. The inspection of the property shall be conducted either by the District Collector or an equivalent authority or by the Inspector General of Registration, while deciding the issue. In so far as deciding the appeal is concerned, it is the Inspector General of Registration, who shall inspect the property under notice to the concerned parties and shall redetermine the value.

5. This Court in its judgment in RAJENDRAN VS. THE INSPECTOR GENERAL OF REGISTRATION AND OTHERS [2012 (3) CTC 589] has held that while the appellate authority exercising his power under Section 47-A(5) of the Indian Stamp Act, 1899, is not empowered to enhance the market value of the property and he can only decide on the correctness of the order passed by the District Collector or District Revenue Officer.

6. Further, Rule 11-A of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, laid down the procedures to be adopted by the appellate authority while deciding the appeal. Rule 11-A of the Tamil Nadu (Prevention of Under Valuation 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."

7. The appellate authority is mandated to issue notice of inspection to the parties concerned and then decide the matter on the basis of the inspection report. While deciding, it is also expected that the materials relied on by him be furnished to the appellant also. Whereas, in this case, the third respondent has relied on the report of the District Registrar, who is an incompetent authority under the Indian Stamp Act. In such circumstances, this Court has no hesitation to set aside the order passed by the Inspector General of Registration, dated 26.04.2010.

8. Accordingly, the order dated 26.04.2010 passed in Ref.Pa.Mu.No.3000/N2/09 by the Chief Controlling Revenue Authority and Inspector General of Registration, Chennai, is set aside and the matter is remitted back to the third respondent Inspector General of Registration, for fresh consideration, in conformity with Rule 11-A of the Rules. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

TK
To

1.The Sub Registrar
Joint . 1, Coimbatore.

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

3.The Chief Controlling Revenue Authority
Inspector General Of Registration
100, Santhome High Road,
Chennai - 600 028.

+1cc to M/s.V.Nicholas Advocate Sr.No.8280
+1cc to Government Pleader Sr.No.8563

NRI(CO)
sm:2.4.2018