IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 02-02-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2666 OF 2012

K.Baskaran ... Appellant

-vs-

1.The Inspector General of Registration,
Santhome High Road,
Chennai.

2.The Special Deputy Collector (Stamps),
Office of the Deputy Revenue Officer (Stamps),
Coimbatore.

3.The Deputy Inspector General of Registration,
Coimbatore.

4.District Registrar, Erode.

5.The Sub-Registrar,
Dharapuram, Erode District. ... Respondents

Appeal is filed under section 47A Indian stamps Act with sub rule 5 (a) against the Rule 9 of Tamil Nadu Stamps rules order dated 05.08.2005, passed in Order No.D.Dis.57101/N2 of 2003, on the file of Chief Controlling Revenue Authority-cum-Inspector General of Registration, Santhome, Chennai confirming the order of the state Deputy Collector (Stamps)Coimbatore, datd 30/04/2003 in Mu.pa No. 3667 of 3668 of 2000 Ds and to direct the respondents to accept the market value adopted by the appellant.

For appellant : Mr.T.M.Hariharan
For respondents : M/s.Mathumathi, AGP,
RR1 to 5

JUDGMENT

Aggrieved over the order passed by the first respondent-Inspector General of Registration, dated 05.08.2005, the appellant is before this Court.

2. According to the appellant, he presented the

document for registering his property before the Sub-Registrar, Dharapuram, and he referred the same to the second respondent under Section 47-A (1) for determining the market value of the property; whereupon, the second respondent enhanced the market value of the property from Rs.34.06 ps. sq.ft. to Rs.58.30 ps. per sq.ft.; against which, he preferred an appeal to the first respondent and the same was disposed of on 14.10.2011, enhancing the market value of the property to Rs.200/- per sq.ft.; and, further aggrieved over the same, he has preferred this appeal.

3. Learned counsel for the appellant would submit that the order passed by the first respondent is vitiated, as no opportunity was given to the appellant either by the second respondent or by the first respondent, before taking a decision to fix the value of the property; the procedure contemplated under Rule 6 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules,1968, was also not followed while fixing the market value; and, therefore, he sought that the impugned order passed by the first respondent be set aside.

4. Conversely, the learned Government Advocate, appearing for the respondents, would submit that the first 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 first respondent need not be interfered with.

5. Heard both sides.

6. A perusal of the impugned order passed by the first respondent discloses that the first 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 first respondent has delegated his duty to the Deputy Inspector General of Registration. This Court, in a decision in C.M.A.No.2820 of 2012, dated 05.06.2015, has discussed the issue in this regard. Paragraph 17 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.

7. In addition, Rule 6 of the Rules states the procedure for arriving at provisional market value. The said rule reads as under :

> "6. Procedure after arriving at provisional market value.- The Collector shall communicate a copy of his order provisionally determining the market value of the properties and the duty payable to all the persons, who are liable to pay the duty along with the notice in Form-II and call upon the parties to lodge their objections, if any, to such determination of the market value within the time specified in the Notice. The Collector shall also hear the parties on the date specified in the Notice or on such other day as may be fixed by him."

8. Therefore, the first respondent is not empowered to delegate the powers conferred on him. Similarly, the procedure contemplated under Rule 6 of the Rules is also not followed by the authorities while determining the market value of the property. As such, the entire proceedings are vitiated, in view of violation of Rules 6 and 11-A of the Rules. Accordingly, the impugned order passed by the first respondent is not sustainable in law and the same is set aside. The authorities are directed to release the document to the appellant.

9. Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

dixit

To

1.The Chief Controlling Revenue Authority-cum-
Inspector General of Registration,
Santhome, Chennai.

2.The Special Deputy Collector (Stamps),
Office of the Deputy Revenue Officer (Stamps),
Coimbatore.

3.The Deputy Inspector General of Registration,
Coimbatore.

4.District Registrar, Erode.

5.The Sub-Registrar,
Dharapuram, Erode District.

+1cc to Mr.T.M.Hariharan, Advocate SR.No.8811
+1cc to Special Government Pleader SR.No.8586

C.M.A.No.2666 OF 2012

NMI(CO)
GN(17/04/2018)