IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2875 of 2013
and M.P.No.1 of 2013

M. Murugadhass ... Appellant

Vs.

1. The State rep. by
the Inspector General of Registration
and Chief Controller of Revenue Authority,
Santhome High Road, Chennai - 600 004.

2. The District Registrar,
Kanyakumari District.

3. The Sub-Registrar,
Rajakkamangalam,
Kanyakumari District. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, against the order dated 17.01.2013 made in proceedings Pa.Mu.En.38091/U1/2007 by the Inspector General of Registration, Santhome, Chennai.

For Appellant : Mr.K.Azhagarasan

For Respondents : Mr.M.Venkadesh Kumar
Government Advocate (C.S)

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the order dated 17.01.2013 made in Pa.Mu.No.38091/U1/2007 by the Inspector General of Registration, Chennai/1st respondent.

2. The Inspector General of Registration, Chennai, had taken up suo motu revision of the matter against the order passed by the Special Deputy Collector (Stamps), Thirunelveli, dated 28.11.2005. Originally, the appellant registered an agricultural land vide Document No. 2211/2005 before the 3rd

respondent/ Sub-Registrar, Rajakkamangalam. The 3rd respondent has referred the document for verification of the market value of the property to the Special Deputy Collector (Stamps) under Section 47-A(1) of the Indian Stamp Act, 1899. The Special Deputy Collector (Stamps) by his order dated 28.11.2005 determined the market value at Rs.11/- per sq.ft. and demanded the deficit stamp duty of Rs.69,584/- and registration charges of Rs.8,700/-. The appellant has remitted the deficit stamp duty and registration charges and got the documents from the 3rd respondent. Thereafter, the appellant sold the property to the third parties. After the sale made by the appellant, the 1st respondent issued notice on 24.08.2008 as to why the market value of the property redetermined at Rs.20/- per sq.ft. The appellant did not appear before the 1st respondent and the 1st respondent has fixed the market value at Rs.20/- per sq.ft. and demanded the deficit stamp duty and registration charges by virtue of the impugned order. The said order passed by the 1st respondent is under challenge in the present Appeal.

3. I have gone through the impugned order passed by the 1st respondent. The 1st respondent has initiated suo motu revision proceedings under Section 47-A(6) of the said Act. He had redetermined the market value on the basis of the report of the District Registrar, Kanyakumari, dated 05.05.2008 and the Deputy Inspector General of Registration, Kanyakumari, dated 14.05.2008. Under Section 47-A(6) of the said Act, the Chief Controlling Revenue Authority should arrive at subjective satisfaction that an order passed under sub-section (2) or sub-section (3) is prejudicial to the interests of revenue and thereafter, he should apply his mind to the inspection reports and record reasons for arriving at a decision. In the process, he shall give reasonable opportunities of being heard of the appellant.

4. 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.

5. A perusal of the impugned order discloses that the decision is taken purely on the basis of the Annual report. There is nothing to show that the first respondent has arrived at the decision after verifying the materials relevant to the issue. Further, he has not recorded any reasons that the redetermination of value done by Deputy Collector (Stamps) is

prejudicial to the interest of the revenue. The impugned order simply relies on the recommendation of the sub-ordinates, without any independent reasons for arriving at the subjective satisfaction mandated under Section 47-A(6) of the Act.

6. In such circumstances, the order passed by the 1st respondent is not sustainable in law and not based on material evidence. Therefore, the order dated 17.01.2013 made in Pa.Mu.No.38091/U1/2007 passed by the 1st respondent/Inspector General of Registration and Chief Controller of Revenue Authority, Chennai, is set aside.

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

Sd/-
Assistant Registrar(CS V)

//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 Registrar,
Kanyakumari District.

3.The Sub Registrar,
Rajakkaamangalam,
Kanyakumari District.

+1cc to Mr.K.Azhagarasan, Advocate SR.No.9185
+1cc to Special Government Pleader SR.No.9507

C.M.A.No.2875 of 2013
and M.P.No.1 of 2013

RJ(CO)
GN(10/04/2018)