IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 02-02-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2909 OF 2012

Dr.(Mrs.) P.Sethuammal M.D. ... Appellant

-vs-

1.The Inspector General of Registration,
Santhome High Road, Santhome,
Chennai - 600 028.

2.The District Revenue Officer (Stamps)/,
Special Deputy Collector (Stamps),
Coimbatore Collectorate Office,
Coimbatore - 641 018.

3.The Sub-Registrar,
Thondamuthur,
Coimbatore Taluk

4.The Sub-Registrar,
Kozhinjampara,
Kerala. ... Respondents

Appeal against the order, dated 22.08.2012, passed in proceedings Mu.Mu.No.20718/No.2/2012, on the file of Inspector General of Registration, Chennai confirming the proceedings of the 2nd Respondent in Mu.Pa.No.2116/C/96 dated 24.02.2002 received by the petitiioner on 14/04/2012.

For appellant : Mrs.R.Gouri

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

JUDGMENT

The appellant has preferred this appeal against the rejection order passed by the first respondent in entertaining the appeal under Section 47-A (5) of the Indian Stamp Act,1899, in short, "the Act".

2. According to the appellant, she presented the sale deed on 20.05.1994 for registration and the Sub-Registrar has referred it for determination of market value to the second respondent after a period of two years. The second respondent issued Form-I on 26.11.1996 and, without issuing Form-II Notice, has directly passed final order on 24.02.2002. The appellant, in the meanwhile, has shifted her address and communicated the same to the authority. Despite the same, final order was not communicated to her at the correct address. Therefore, there was a delay in filing the appeal. The appellate authority, namely, the first respondent has rejected the same, as it was not filed within the limitation period, contemplated under Rule 9 (1) of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules,1968, in short, "the Rules", against which, this appeal is preferred.

3. According to the learned counsel for the appellant, the order passed by the second respondent itself is null and void, in view of violation of Rules 6 and 7 of the Rules; and, therefore, the orders passed by both first and second respondents are to be quashed.

4. Heard the submissions of both sides.

5. From a perusal of the order passed by the second respondent, it is seen that Form-I Notice, as per Rule 4 of the Rules, was issued on 26.11.1996, but, Form-II Notice was not issued. The second respondent has passed the final order on 24.02.2002.

6. 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."

7. Rule 7 (1) of the Rules 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."

8. A reading of Rule 6 will show that it is a mandatory procedure as it reads that the Collector shall communicate a copy of the order determining the market value and the Collector shall also hear the parties on the specified or other dates as may be fixed by him. Therefore, it is mandatory to communicate the provisional order fixing the market value and also to conduct a personal hearing upon receiving the objections of the parties concerned. Failure to adhere to the mandates under Rule 6 will vitiate the entire proceedings and it also amounts to violation of principles of natural justice.

9. As per Rule 7 (1), the authority should pass orders within three months from the date of first notice i.e., the notice issued as per Rule 4 under Form-I. In the instant case, Form-I Notice was issued on 26.11.1996 and final order came to be passed much later on 24.02.2002 i.e., after a lapse of six years. When the mandatory requirement of passing orders within three months is specified under Rule 7 of the Rules, the delay of six years vitiates the entire proceedings.

10. The contention of the learned counsel for the appellant that even a direction to the first respondent to decide the appeal will be an empty formality, as the result will be the same in view of the judgment of this Court in K.Vijayalakshmi v. The Chief Controlling Revenue Authority of Tamil Nadu and Others, repored in 2012 (3) LW 27 merits consideration. Further, Rule 15 of the Rules prescribes the mode of service of notice. In the case on hand, the respondents have not served notices as well as orders to the appellant at her correct address and it amounts to non-service.

11. It is well settled by this Court that violation of the above referred statutory rules vitiates the entire proceedings. Therefore, this Court has no hesitation to set aside the order passed by the second respondent in

Mu.Pa.No.2116/C/96, dated 24.02.2002. In view of the order of the second respondent being setting aside, there is no need for filing appeal to the first respondent, as it is an inefficacious remedy.

12. In the result, the order passed by the first respondent in Mu.Mu.No.20718/No.2/2012, dated 22.08.2012, and also the order passed by the second respondent in Mu.Pa.No.2116/C/96, dated 24.02.2002, are set aside. Civil Miscellaneous Appeal is allowed. No costs. Consequently, the connected M.P.No.1 of 2012 is closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

dixit

To

The Inspector General of Registration,
Santhome,
Chennai-600 028.

copy to
The Section Officer
VR Section High court Madras

+1 cc to the Special Govt Pleader (cs) sr 8575

C.M.A.No.2909 OF 2012

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