IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.761 of 2010
and M.P.Nos.1 and 2 of 2010

Jayabalan ... Appellant

Vs.

1. The Inspector General of Registration,
No.120, Santhome High Road,
Chennai - 600 028.

2. The Special Deputy Collector (Stamps),
Cuddalore.

3. The Joint Sub Registrar-I,
Villupuram. ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, against the order dated 24.12.2009 made in proceedings Pa.Mu.No.47487/No.3/04 passed by the 1st respondent, the Inspector General of Registration, Chennai.

For Appellant : Mr.N.Suresh

For Respondents : Ms.A.Madhumathi
Addl. Government Pleader

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the order dated 24.12.2009 made in proceedings Pa.Mu.No.47487/No.3/04 by the 1st respondent, the Inspector General of Registration, Chennai.

2. The appellant presented the document for registration on 28.10.1994. This was kept pending for production of FM sketch and other documents by the appellant. Finally, it was registered on 25.03.1998 and the appellant had paid registration charges on 28.10.1994. However, surprisingly the document was referred for redetermination of the market value to the 2nd respondent/ Special Deputy Collector (Stamps), Cuddalore, on 30.04.1998. The 2nd respondent issued notice under Form-I on 30.04.1998 and notice under Form-II on 26.09.1998. But, the final order came to be passed only on 23.07.2004. Against which, the appellant preferred an appeal

to the 1st respondent, who decided the same on the basis of the report given by the Deputy Inspector General of Registration, Cuddalore, by its order dated 24.12.2009.

3. The appellant has raised the points of delay in passing the orders before the 1st respondent. However, the Inspector General of Registration has not given any finding on these aspect. Therefore, the appellant sought for quashing of the order passed by the 1st respondent.

4. The learned Additional Government Pleader appeared in this matter would submit that the appellant was the reason for the delay in registration and therefore, he cannot take advantage of his own fault. The appellant failed to produce relevant documents and due to the delay in production of those documents, the impugned order came to be passed after a period of five years. The 1st respondent has considered all these points, passed reasonable order and redetermined the market value by reducing the same from Rs.8,20,000/- per acre to Rs.6,00,000/- per acre. Therefore, the order passed by the 1st respondent is very much reasonable and does not require any interfere.

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

6. On a perusal of the records, it is seen that the Form-I notice was given on 30.04.1998 and Form-II notice as early as on 26.09.1998. But, the order was passed by the 2nd respondent only on 23.07.2004. There is no reason assigned for the delay in passing the final order after a period of six years. In fact, Rule 7 of the Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968, 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 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.
>
> (2) A copy of the order shall be communicated to the registering officer concerned for his record.

(3) The difference in the amount of duty determined by the Collector shall be paid within two months from the date of final order passed under sub-section (2) or sub-section (3) of section 47-A.

(4) The Collector shall, after collecting the difference in amount of stamp duty and interest, if any, under section 47-A, give a certificate in Form III by endorsement on the instrument."

7. The order shall be passed within a period of three months from the date of first notice. But, surprisingly in this matter, the time taken for issuing Form-I and Form-II notice was five months. Likewise, the time taken for passing final orders is more than six years.

8. In similar circumstances, a judgment rendered by this Court in C.M.A.No. 2820 of 2012 (S.Santhi Vs. The Chief Revenue Controlling Authority, Chennai, and others), wherein, it has been held that the delay in passing final orders is contravention of Rule 7 of the said Rules, vitiates the entire proceedings. Even though, a specific ground was raised by the appellant and the same was not taken note of by the 1st respondent. There is no explanation or reason for not considering the delay, while deciding the appeal. The delay vitiates the entire proceedings and accordingly, the order dated 24.12.2009 made in proceedings Pa.Mu.No.47487/No.3/04 passed by the 1st respondent, the Inspector General of Registration, Chennai, is set aside.

9. With the above observations and directions, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To
The Chief Controlling Revenue Authority/
Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

Copy to:The Section Officer,
VR Section, High Court, Madras(2 copies)

+1cc to Mr.N.Suresh, Advocate Sr.No.8148
+1cc to Government Pleader Sr.no.8571

sm:11.4.2018

CMA.No.761/2010