IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.2168 OF 2006
AND M.P.NO.1 OF 2006

A.Balavelayutham ... Appellant

Vs.

1.The Inspector General of Registration
Tamil Nadu - cum - Principal Revenue
Controlling Authority
120, Santhome High Road,
Chennai - 600 028.

2.The Special Deputy Collector (Stamps)
Thanjavur District,
Thanjavur.

3.The Sub Registrar
Erandam Pulikkadu Sub Registry
(Now) merged with Sub Registrar's Office
Peravurani,
Thanjavur District. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A of the Indian Stamp Act, against the final orders passed by the first respondent herein in No.24011/N3/05 dated 25.04.2006 as the Statutory Appellate Authority under the Indian Stamp Act and received by the appellant herein on 05.05.2006.

For Appellant : Mr.M.Balasubramanian
For Respondents : Mr.M.Venkadesh Kumar
Government Advocate (CS)

J U D G M E N T

Aggrieved over the order dated 25.04.2006 passed by the first respondent, the appellant is before this Court.

2. According to the appellant, he purchased a commercial land and presented the document for registration. The Sub Registrar has referred the same for determination of market

value under Section 47-A(1) of the Indian Stamp Act. The second respondent issued notice under Rule 4 in Form – I on 20.12.2001. On 05.10.2002, notice under Samadhan Scheme was issued to the appellant. Thereafter, final order came to be passed on 19.01.2004 by the second respondent. Against which, the appellant preferred an appeal to the first respondent, in which, orders were passed on 25.04.2006 and the same is under challenge in this Civil Miscellaneous Appeal.

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

4. From the perusal of the materials available on hand, it is seen that Form-I notice was issued on 20.12.2001 by the second respondent. However, final order came to be passed only on 19.01.2004, after a period of three years. The appellant has raised the issue of violation of statutory rules before the first respondent. The first respondent has not considered anything, but relied on the report of the Deputy Inspector General of Registration and determined the market value of the property as Rs.27,000/- per acre.

5. In similar circumstances, this Court in S.SANTHI VS. THE CHIEF REVENUE CONTROLLING AUTHORITY & INSPECTOR GENERAL OF REGISTRATION, CHENNAI AND TWO OTHERS [C.M.A.NO.2820 OF 2012 DATED 05.06.2015] has held as follows:-

> "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 first 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.
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> 18. The failure on the part of the 2nd respondent to pass a final order within 3 months from the date of Form-I notice as mandated under rule 7 of the rules vitiates the entire proceedings. Form - I notice was issued on 17.05.2005 and the final order was passed on 05.12.2006, after 1 1/2 years, i.e., after 3 months and hence the entire

proceedings are vitiated.

19. The impugned order has been passed by the first respondent purely based on inspection reports of the District Registrar/Deputy Thasildar, who are not authorised under the Act and hence the said inspection reports are not materials collected by the authorities, entitled under the Act. Hence, the proceedings of the second respondent and first respondent are vitiated."

6. Rule (7) of the Tamil Nadu Stamp (Prevention of under valuation of instrument) 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. As per the aforesaid rule, the authority shall pass orders within three months from the date of issuance of the first notice. In the instant case, even though the first notice was issued on 20.12.2001, the authority passed orders after three years. In that event, the entire proceedings being vitiated by the delay occasioned. Further, it is found that he has delegated his powers to the Subordinate Officer. The

appellate authority has mandated to conduct site inspection by himself and he is not empowered to delegate his powers to his Subordinate Officer. Therefore, as per the decision of this Court in C.M.A.NO.2820 OF 2012 dated 05.06.2015, the order passed by the first respondent is not sustainable.

8. In fine, the order dated 25.04.2006 passed by the first respondent in proceedings No.24011/N3/05 is set aside and the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

TK

To

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The Section Officer, V.R. Section,
High Court, Madras.(2 copies)

+1cc to the Government Pleader, S.R.No. 8545/18

C.M.A.NO.2168 OF 2006

ak(CO)
TR(28/03/2018)