IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2829 of 2006
and M.P.No.1 of 2006

A.R.Prabhakar ... Appellant/Petitioner

Vs.

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

2. The District Revenue Officer (Stamps),
   No.32, Singaravelar Malligai,
   Rajaji Salai, Chennai - 600 001.

3. The Joint Sub Registrar-II,
   Saidapet, Chennai - 600 015. ... Respondents/ Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, against the order dated 25.07.2006 made in proceedings No.31175/No.1/05 passed by the 1st respondent, the Inspector General of Registration, Chennai.

For Appellant : Ms.A.Divya

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

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the order dated 25.07.2006 made in proceedings No.31175/No.1/05 passed by the 1st respondent, the Inspector General of Registration, Chennai.

2. The appellant presented his document for registration assessing the market value of the property at Rs.70/- per sq.ft. The matter was referred under Section 47-A of the Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968, to the 2nd respondent/the District Revenue Officer (Stamps), Chennai. The 2nd respondent issued a notice in Form-I under Rule 4 of the Rules, fixing the guideline value of the

property at Rs.450/- per sq.ft. After objections made by the appellant, the 2nd respondent redetermined the value at Rs.337/- per sq.ft. by its order dated 16.05.2005. Aggrieved over the same, the appellant made an appeal to the 1st respondent, the 1st respondent by way of impugned order dated 25.07.2006 enhanced the market value redetermined by the 2nd respondent from Rs.337/- to Rs.450/- per sq.ft. Hence, the present Civil Miscellaneous Appeal has been filed.

3. The learned Government Advocate would submit that the "Samadhan Scheme" announced by the Government by G.O.Ms.No.189, Commercial Taxes and Registration (J1) Department, dated 29.12.2017 is in force, the appellant can approach the 1st respondent as the appeal is pending as on 08.06.2017.

4. I have considered the materials on record.

5. In the appeal filed by the appellant under Section 47-A(5), the 1st respondent can go into the merits of the order passed by the 2nd respondent and hold as to whether the order is correct and justified or erroneous and the 1st respondent cannot enhance the value of the property.

6. As per the judgment of this Court in RAJENDRAN VS. THE INSPECTOR GENERAL OF REGISTRATION AND OTHERS [2012 (3) CTC 589] when an appeal is made by the land owner, the Inspector General of Registration cannot enhance the market value over and above the value determined by the Collector / District Revenue Officer. Therefore, the first respondent cannot enhance the market value without any materials. Thus, the order passed by the first respondent is illegal, arbitrary and without application of mind.

7. Rule 11-A of the Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules, 1968, certain mandatory procedures are laid down, which 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 of authority under the Government or the local authority; and
>
> (c) inspect the property after due notice to the parties concerned."

As per the above rule, the appellate authority / first respondent shall conduct personal inspection. But the inspection was not conducted by him. Thus, the statutory requirement under Rules 11-A and 12 of the Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules 1968, has been violated.

8. On the contrary, the inspection of the property was conducted by the District Registrar. This Court in similar circumstances has considered the inspection conducted by the District Registrar and has held that the District Registrar is not an authority under the Act and is incompetent to redetermine the value. Therefore also, the impugned order is not sustainable. Further, it is incumbent on the appellate authority to furnish the documents relied on by him for determining the market value. The appellant shall be given an opportunity to put forward his objections. By not providing the documentary or other materials for determining the market value, the first respondent has deprived the opportunity as contemplated by law.

9. Therefore, I am of the considered view that the order dated 25.07.2006 made in proceedings No.31175/No.1/05 passed by the 1st respondent is not sustainable and accordingly, it is set aside. The matter is remitted back to the 1st respondent for fresh consideration in accordance with Rule 11(A) of the Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968. It is also open to the appellant to avail the benefit of the "Samadhan Scheme" announced by the Government. Otherwise, it is open to the appellant to agitate the case in the appropriate manner.

10. In the result, this Civil Miscellaneous Appeal is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

asi/tk

To

1. The Chief Controlling Revenue Authority/
Inspector General of Registration,
No.120, Santhome High Road,Mylapure
Mylapore, Chennai - 600 028.

2. The District Revenue Officer (Stamps),
   No.32, Singaravelar Malligai,
   Rajaji Salai, Chennai - 600 001.

3. The Joint Sub Registrar-II,
   Saidapet, Chennai - 600 015.

+1cc to Government Pleader SR.No.6552

C.M.A.No.2829 of 2006
and M.P.No.1 of 2006

SR(CO)

GMY(29/10/2018)