IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.3036 of 2006

S. Kalavathy ... Appellant

Vs.

1. The Inspector General of Registration,
   Madras - 28.

2. The Deputy Collector (Stamps),
   Trichy.

3. The Joint Registrar No.1,
   Office of the District Registrar,
   Court Complex, Trichy - 620 001. ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, against the order dated 21.06.2005 in proceedings No.29764/B3/V1/02 passed by the Inspector General of Registration-cum- Chief Controlling Revenue Authority, Chennai.

For Appellant : Mr.V.Raghavachari

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

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J U D G M E N T

Aggrieved over the order dated 21.06.2005 in proceedings No.29764/B3/V1/02 passed by the Inspector General of Registration-cum- Chief Controlling Revenue Authority, Chennai, the appellant has come before this Court with this Civil Miscellaneous Appeal.

2. The appellant purchased three properties vide document Nos. 4411/2000, 4439/2000 and 4509/2000. The property purchased by document No.4411/2000 is situated in Heber Road, which has higher commercial value and other two properties purchased by document Nos. 4439/2000 and 4509/2000 situated in Raja Colony Cross Road and the access to those two properties is only

through Raja Colony Cross Road. But, the Registrar, Trichy/3rd respondent has referred the documents for redetermination of the market value on the grounds that all these three properties shall be treated as a single unit as it is owned by same person. The 3rd respondent issued the notice redetermining the market value as Rs.770/- per sq.ft as fixed for the property registered under document No.4411/2000. Aggrieved over the same, the appellant preferred an appeal to the 1st respondent herein. The 1st respondent by its order dated 21.06.2005 rejected the contention and confirmed the order of the Deputy Collector (Stamps), Trichy/2nd respondent.

3. The learned counsel appearing for the appellant would contend that admittedly, there are three documents registered for three different properties. The identity of each property is entirely different and in the event, the properties are conveyed, an access can be only through Raja Colony Cross Road, in respect of the properties under document Nos.4439 and 4509/2000 and Heber Road in respect of the property under document No.4411/2000. Therefore, all these properties can not be combined and the market value cannot be fixed without considering the location of the properties. The order passed by the 1st respondent under the presumption that it may be used as one single property is also far-fetched.

4. It is also the contention that adjacent properties in the very same Raja Colony Cross Road were registered assessing the market value at Rs.360/- per sq.ft in the year 2001 and that even the value of the properties registered by the appellant at most would have been Rs.360/- per sq.ft and not more than that. The appellate authority, while passing orders did not consider all the relevant materials. Therefore, the appellant sought the order of the 1st respondent to be quashed.

5. Mr.M.Venkadesh Kumar, learned Government Advocate vehemently contended that all the three properties belong to the same person and they are using the property for running their commercial establishment. There is no separate identity to the property and in order to avoid the stamp duty, the appellant is indulging to divide the properties into three and seek to pay lesser stamp duty. It causes loss to the Revenue of the State and it is prejudicial to the interest of the Revenue. Therefore, the order passed by the 1st respondent need not be interfered with.

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

7. When there are three documents presented for registering three different properties, the market value of the property shall be assessed individually and not taking all the three properties as a whole. The access to the property under appeal is through 20 feet road which is lying behind the property situate in Heber Road. Admittedly, Heber Road is main road and wider than Raja Colony cross road. Therefore, the locational advantage for the property situate in the main road would be much higher than the property situate in a narrow street having width of 20 feet. Admittedly, the property in this appeal was registered in the year 2000 and the market value was determined as Rs.770/- per sq.ft. Surprisingly, the very same Registrar's office, registered the adjacent properties @ Rs.360/- per sq.ft in the subsequent year 2001. While deciding the appeal, the appellate authority has not at all applied his mind to this aspect. The value of the properties normally appreciate and will not depreciate. The 1st respondent has totally failed to apply his mind in respect of the different properties. More over, under Section Rule 11(A) of Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968, the procedure is laid down for deciding the appeal. Rule 11(A) of the said Rules 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.

8. It is mandatory on the part of the appellate authority to conduct site inspection after giving notice to the parties. In the instant case, no notice for inspection was given to the parties concerned. The site inspection was caused to be done through the Deputy Inspector General of Registration. There is no enabling power under Section 47(A)(5) of the Act to sub-delegate the power. Therefore, the order passed by appellate authority is without application of mind and violative of Rule

11-A of Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968.

9. In such circumstances, I am inclined to set aside the order 21.06.2005 in proceedings No.29764/B3/V1/02 passed by the Inspector General of Registration-cum-Chief Controlling Revenue Authority, Chennai/ 1st respondent.

10. With the above observations and directions, this Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CS-ix)

//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.

+1cc to Mr.V.RAGHAVACHARI, Advocate, S.R.No. 7406
+1cc to the Spl. Government Pleader, S.R.No. 8555

C.M.A.No.3036 of 2006

GJ II(CO)
TR(04/04/2018)