IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.3097 OF 2006
AND CMP NO.10112 OF 2006

Nasreen Yousuff ... Appellant

Vs.

1.Inspector General of Registration
Santhome High Road,
Chennai - 600 004.

2.Deputy Collector - Stamps
5th Floor, Singaravelar Maligai,
Rajaji Salai,
Chennai - 600 001.

3.The Sub Registrar
11th Main Road, Anna Nagar,
Chennai - 600 040. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A of the Indian Stamp Act, 1899, to set aside the order of the first respondent dated 05.02.2005 in Appeal No.62300/N4/2003.

For Appellant : Mr.S.Hussain Afroze
For Respondents : Mr.M.Venkadesh Kumar
Government Advocate (CS)

J U D G M E N T

The appellant is the purchaser of the property and she presented her sale deed dated 02.04.2002 for registration. The third respondent referred the same for determination of market value under Section 47-A(1) of the Indian Stamp Act, to the second respondent. The second respondent issued notice in Form - I on 06.09.2002 and passed final order during February 2003. However, the appellant has preferred an appeal belatedly and thereafter, after the intervention of this Court in W.P.No.30495 of 2003, dated 19.11.2003, the appeal was entertained by the first respondent and it was finally disposed of on 05.02.2005. Aggrieved over the order of the first respondent, the appellant is before this Court.

2. The learned counsel for the appellant would contend that the order passed by the first respondent is without application of mind, contrary to Rules 7 and 11-A of the Tamil

Nadu Stamp (Prevention of under valuation of instrument) Rules, 1968.

3. Per contra, the learned Government Advocate (CS) would submit that the property is situated in Anna Nagar, Chennai, which is very posh area and surrounded by High Income Group residences, Schools, Commercial Establishments and Hotels, having access and other facilities. Further, after giving notice and conducting personal hearing and after considering all the relevant materials, a reasoned order has been passed by the first respondent and therefore, the order passed by the first respondent, need not be interfered with.

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

5. From the perusal of the impugned order, it is seen that the first respondent has not conducted any inspection, after giving notice to the parties. He only relied on the reports submitted by the Deputy Inspector General of Registration and the District Revenue Officer. The impugned order does not speak about the materials, on which, the decision was taken and no reason for arriving at a particular value. The order passed by the first respondent is not in conformity with Rule 11-A of the Tamil Nadu Stamp (Prevention of under valuation of instrument) Rules, 1968.

6. 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.....
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> 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."

7. Further, the order passed by the authority is in violation of Rule 11-A of the Tamil Nadu Stamp (Prevention of under valuation of instrument) Rules, 1968 and this Court, in various other cases found that violation of Rule 11-A of the Tamil Nadu Stamp (Prevention of under valuation of instrument) Rules, 1968, will vitiate the entire proceedings. In the instant case also, the first respondent has failed to comply with the requirements of procedures laid down under Rule 11-A of the Rules.

8. In the light of the above, the impugned order dated 05.02.2005 passed in Appeal No.62300/N4/2003, by the first respondent is set aside and the matter is remitted back to the first respondent for passing orders afresh, in conformity with Rule 11-A of the Rules.

9. The learned Government Advocate (CS) would further submit that the Government under G.O.Ms.No.189, Commercial Taxes and Registration (J1) Department, dated 29.12.2017, has announced Samadhan Scheme. As per the said Government Order, all the appeals, which are pending before this Court as on 08.06.2017, under Section 47-A(10) of the Indian Stamp Act are covered by the Scheme.

10. Therefore, it is open to the appellant to avail the benefits of Samadhan Scheme, if she chooses to do so. In any case, the first respondent is directed to dispose of the matter afresh, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

11. The Civil Miscellaneous Appeal is disposed of in the above terms. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

TK

To

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+ 1 cc to Special Government Pleader SR.8544
+ 1 cc to MR. S. Hussain Afroze, Advocate Sr.7679

C.M.A.NO.3097 OF 2006

LRS(CO)
EU(21/03/2018)