IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.699 OF 2006
AND CMP NO.2866 OF 2006

M.Senthilkumar ... Appellant

Vs.

1.The Chief Controlling Revenue Authority and
Inspector General of Registration
Chennai - 600 028.

2.The District Collector
Rep. by Special Deputy Collector (Stamps)
Cuddalore.

3.The Registering Authority
Rep. by Joint Sub Registrar - II
Kallakuruchi.
... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A(10) of the Indian Stamp Act, against the order of the first respondent herein made in No.46365/N3/04 dated 28.10.2005 fixing the market value of the property in S.Nos.146/1, 146/2 and 146/3 (totaling 28272 1/4 sq.ft) of Kallakuruchi Village and Taluk at Rs.50/- per sq.ft. purchased by the appellant at Rs.10/- per sq.ft. on 09.12.1997.

For Appellant : Ms.E.Sasikala

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 he presented the document for registration. The Sub Registrar had referred the document for determination of the market value of the property under Section 47-A(1) of the Indian Stamp Act,

1899. Pursuant to the same, the second respondent issued notice under Form - I as per Rule 4 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, on 01.12.1998 and notice under Form - 2 on 11.01.2001 and final order came to be passed on 10.06.2003. Against which, the appellant preferred an appeal before the first respondent on 01.09.2014, which was disposed of on 28.10.2005. The said order of the first respondent is under challenge in this Civil Miscellaneous Appeal.

2. The learned counsel for the appellant would submit that there is violation of Rule 7 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 by the second respondent and the first respondent in an appeal filed by the appellant under Section 47-A(5) of the Indian Stamp Act, enhanced the market value of the property. Thereby, the first respondent has exceeded his jurisdiction and therefore, the impugned order is liable to be set aside.

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

4. It is seen that the second respondent has initiated the proceedings by issuing notice under Form - I on 01.12.1998. He should have passed order within three months i.e., before March 1999. Whereas, final order came to be passed on 10.06.2003 and thereby, the statutory period specified under Rule 7 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules has been violated.

5. 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."

6. This Court in S.MANICKAM VS. THE CHIEF CONTROLLING REVENUE AUTHORITY AND INSPECTOR GENERAL OF REGISTRATION [CMA No.605 of 2006 dated 14.07.2017] has quashed the similar order passed by the first respondent. As of today, the order passed by the first respondent is non-est in law. Therefore, the present appeal bound to be allowed in the same lines.

7. This Court in RAJENDRAN VS. THE INSPECTOR GENERAL OF REGISTRATION AND OTHERS [2012 (3) CTC 589] has held that the appellate authority while deciding the appeal, can only go on to the legality and the correctness of the order passed by the original authority and he cannot exceed his jurisdiction and enhance the market value of the property, as if he is exercising his power under Section 47-A(6) of the Indian Stamp Act. Therefore also, the impugned order is vitiated in law.

8. In the result, the order passed by the first respondent in proceedings No.46365/N3/04 dated 28.10.2005 is set aside and the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

TK

To

1.The Chief Controlling Revenue Authority and
Inspector General of Registration
Chennai - 600 028.

2.The District Collector
Rep. by Special Deputy Collector (Stamps)
Cuddalore.

3.The Registering Authority
Rep. by Joint Sub Registrar - II
Kallakuruchi.

4. The Section Officer,
VR Section, High Court,
Madras. ( 2 Copies)

+1cc to Mr.S.Radha Gopalan, Advocate SR.No.8355
+1cc to Special Government Pleader SR.No.8547

C.M.A.NO.699 OF 2006

KK(CO)
GN(27/03/2018)