



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2018
(Reserved on 29.01.2018)

WEB COPY

CORAM :
THE HONOURABLE MRS.JUSTICE J.NISHA BANU
CMA(MD)No.649 of 2015
and
MP(MD)Nos.1 and 2 of 2015

Tmt.R.Kalyani

... Appellant

vs.

- 1) The Inspector General of Registration,
and Chief Revenue Controlling Officer,
Santhome, Chennai-28.
- 2) The Special Deputy Collector(Stamps),
Tirunelveli.
- 3) The Sub Registrar,
Sankarankovil,
Tirunelveli District.

... Respondents

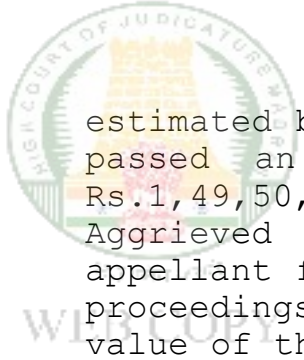
Appeal filed under Section 47 A(10) of the Indian Stamp Act, 1899, against the order dated 10.03.2015 made in Pa.Mu.No.58374/N5/2014 passed by the Inspector General of Registration, Chennai and Chief Revenue Controlling Authority.

For Appellant	: Mr.K.Balasubramani
For R1	: Mr.K.Anbarasu Additional Government Pleader
For R2 and R3	: No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the order dated 10.03.2015 made in Pa.Mu.No.58374/N5/2014 passed by the 1st respondent/Inspector General of Registration and Chief Revenue Controlling Officer, Chennai, which was passed consequent to the order passed by this Court in CMA(MD)No.104 of 2014, dated 28.11.2014.

2.The appellant had purchased agricultural land to an extent of 3.20 acres in S.F.No.212/3 of Sankaran Kovil Village, Tirunelveli District from one Karuppasamy and his family members vide document No.1220/2010 dated 17.03.2010 on the file of the 3rd respondent/Sub Registrar, Sankarankovil, Tirunelveli District, by paying stamp duty of Rs.16,250/- for the land value of Rs.2,06,500/-. However, as the 2nd respondent was not convinced with the value of the land as



estimated by the appellant, he issued Form I notice and thereafter, passed an order dated 12.08.2011, fixing the land value at Rs.1,49,50,000/- valuing the land at Rs.106.84/- per square feet. Aggrieved by the said order passed by the 2nd respondent, the appellant filed an appeal before the 1st respondent, who in turn, by proceedings in PA.MU.No.51527/N5/2011, dated 21.11.2013, revised the value of the land at Rs.72.33/- per square feet which was challenged by the appellant before this Court by filing CMA(MD)No.104 of 2014 on two grounds namely,

i) There was no jurisdiction for the registering authority to refer the matter to the Special Deputy Collector(Stamps), under Section 47-A of the Indian Stamp Act, as there was no reason or material for the registering authority to believe that the true market value of the property has not been set forth in the document.

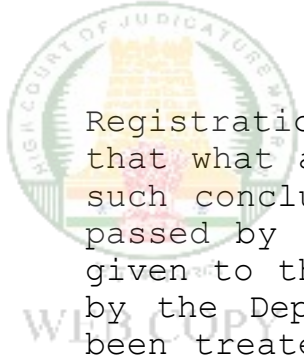
ii) The objection raised by the appellant for fixing the provisional market value has not been considered by the 2nd respondent which is evident from the order passed by the 2nd respondent dated 12.08.2011.

3. As the nature of objections taken, details of objections taken and the reasons given either for accepting or rejecting the objections were not found in the order dated 21.11.2013, the appellant in the said appeal contended that the 1st respondent passed the said order without application of mind.

4. This Court in CMA(MD)No.104 of 2014, dated 28.11.2014, held that the 1st respondent who is the appellate authority in his order has stated that the claimant produced photographs showing chilly and fooder plants and as per the revenue records, the lands have been used for agricultural purposes. However, the 1st respondent ignored the same and treated the land as house-site by making an observation that there are chances of lands being used as house sites in the near future. Therefore, the Court held that the value of the land as it existed on the date of registration of the document alone can be the criteria for fixing the value of the land.

5. Accordingly, the learned Judge set aside the order passed by the 1st respondent dated 21.11.2013 and since the value has to be fixed by considering the land as agricultural land and for that, the concerned authorities may have to rely upon data sale deeds which would be available showing the sale of agricultural lands at the relevant point of time, the learned Judge remanded the matter back to the 1st respondent for fresh consideration in accordance with law and also by taking into consideration the observation made by this Court in CMA(MD)No.104 of 2014, by which, the present impugned order dated 10.03.2015 made in Pa.Mu.No.58374/N5/2014 came to be passed.

6. Perusal of the impugned order shows that though objections have been received from the appellant, the appellate authority has solely relied on the report submitted by the Deputy Registrar of



Registration and nowhere in the impugned order, it has been stated that what are the documents relied on by the respondents to come to such conclusion. Nothing has been reflected in the impugned order passed by the appellate authority as to whether an opportunity was given to the appellant to offer his comments about the report given by the Deputy Registrar of Registration and whether the land has been treated as agricultural land as directed by the learned Judge in CMA(MD)No.104 of 2014. In my considered opinion, the impugned order amounts to non application of mind.

7.Learned counsel for the appellant relied on a judgment of this Court in *S.Sivasubramaniam vs. Chief Controlling Revenue Authority cum Inspector General of Registration, Chennai*, reported in 2013 (6) CTC 295, wherein, it has been specifically stated that Rule 11-A contemplates Notice which is mandatory having regard to the purpose of Notice. Had there been Notice, it would have enabled the purchaser to show materials/physical features which would be helpful for the appellate authority to find out whether the property in question is an agricultural land or house-site.

8.In the present case, the Deputy Registrar of Registration has given a report and based on the same, the impugned order has been passed. There is no material to show such report has been served on the appellant to make his comments. When there is a specific finding by the learned Judge in CMA(MD)No.104 of 2014, dated 28.11.2014, that value of the land has to be fixed by considering the land as agricultural land based upon data sale deeds, the 1st respondent ought not to have relied on only the report of the Deputy Registrar of Registration and copy of the report ought to have been given to the appellant to make his comments and therefore, once again, the 1st respondent has committed an error in not giving an opportunity to the appellant to put forth her comments on the report submitted by the Deputy Registrar of Registration.

9.Learned counsel for the appellant has also produced yet another judgment in *V.R.Venkataraman vs. Chief Controlling Revenue Authority/The Inspector General of Registration, Chennai and 4 others* reported in 2005 (2) CTC 465, wherein, it has been held that the Chief Controlling Revenue Authority dealing with valuation under Stamp Act, exercises quasi judicial power and has to give reasons while disposing appeal. In the present case, simply by taking into account the report submitted by the Deputy Registrar of Registration, the 1st respondent has passed the impugned order which does not reflect application of mind on the part of the 1st respondent.

10.Learned counsel for the appellant also cited a judgment of this Court *S.Kandasamy Pillai vs. The Revenue Divisional Officer, Sivakasi, Kamarajar District* (CRP.2188 of 1994, dated 11.08.1998), wherein, at paragraph 7, it has been held as follows:-

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7.A harmonious construction of the above Section and Rule, makes it clear that in view of the word 'may' used



in Rule 4(3)(c), no doubt the Collector is given an option to inspect the property; but once the Collector decides to inspect the property to hold an enquiry on the representation of the petitioner, it is mandatory for the Collector to give due notice to the petitioner before inspecting the property; otherwise, the very enquiry contemplated under Section 47-A of the Act read with Rule 4(3)(c) would become an empty formality. When the rule provides a particular procedure to be followed while inspecting the property for the purpose of conducting such enquiry provided under Section 47-A of the Act read with Rule 4(3)(c), such procedure has to be strictly adhered by the authorities concerned, or otherwise, it would render the entire enquiry as illegal. In the instant case, admittedly, no due notice had been given to the revision petitioner by the Revenue Divisional Officer at the time of inspecting the property, and consequently, the proceedings of the respondent dated 31.3.1988 made in S.R.No.206 of 1987 as confirmed by the learned Subordinate Judge, Srivilliputhur, are erroneous and illegal and therefore, the same are set aside. Hence, the matter is remitted back to the learned Revenue Divisional Officer to exercise his power under Section 47-A of the Act and hold an enquiry following the procedure laid down under Rule 4 of the Rule and the guidelines prescribed under Rule 5 of the Rules and pass appropriate orders within three months from the date of receipt of a copy of this order.

In the result, revision is ordered accordingly. No costs.'

11. In the instant case, admittedly, though the appellant has participated in the enquiry and has given objections, without considering any of her objections, the 1st respondent/appellate authority has simply relied on the report submitted by the Deputy Registrar of Registration and fixed the market value of the land.

12. From the above discussion, it is very clear that the 1st respondent has neither gone by the rules nor the order passed by this Court in CMA(MD)No.104 of 2014 dated 28.11.2014. Hence, the impugned order in Pa.Mu.No.58374/N5/2014, dated 10.03.2015, passed by the 1st respondent is liable to be set aside and accordingly, the same is set aside.

Resultantly, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)



To

1) The Inspector General of Registration,
and Chief Revenue Controlling Officer,
Santhome, Chennai-28.

2) The Special Deputy Collector(Stamps),
Tirunelveli.

3) The Sub Registrar,
Sankarankovil,
Tirunelveli District.

+1cc to Mr.K.Balasubramani, Advocate in SR. No.69099
BALA
MK/SKN RSK/SAR 1/03.07.2018/5P/5C

CMA(MD) No.649 of 2015
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