IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.04.2019

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1256 of 2016 &
CMP.Nos.9520 and 9521 of 2016

Mr. Shahul Hameed .. Appellant

-vs-

1. Chief Controlling Revenue Authority-
   cum Inspector General of Registration,
   Santhome High Road,
   Chennai-28.

2. District Revenue officer (Stamps),
   Collectorate Compound,
   Coimbatore.

3. The Sub Registrar,
   Mettupalayam, Coimbatore .. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 47 A(1) of the Indian Stamp Act, 1899 against the order of the Inspector General of Registration, Santhome, Chennai in the proceedings No.P.M.No.8604/N2/2015 dated 13.04.2016, confirming the order of the 2nd respondent bearing M.U.No.1015/C/2014 dated 22.12.2014.

For Appellant : Mr.S. Mukunth
For Respondents : Mr.T.M. Pappiah,
Spl. Govt. Pleader

JUDGMENT

Challenging the order of the Inspector General of Registration, Chennai, dated 13.4.2016, the land owner has preferred the present Civil Miscellaneous Appeal before this Court.

2. According to the appellant, he purchased a piece of agricultural land and presented the sale deed for registration, whereas, the 3rd respondent viz., Sub Registrar, Mettupalayam, Coimbatore, referred the same for determination of market value to the 2nd respondent viz., District Revenue Officer (Stamps).

The 2nd respondent, in turn, had fixed the market value at Rs.200/- per square foot after assessing the sale deeds in respect of similar properties.

3. Aggrieved over the market value fixed by the 2nd respondent, the appellant preferred an appeal before the 1st respondent under Section 47 A(5) of the Indian Stamp Act 1989. The value determined by the 2nd respondent was confirmed and his appeal was rejected. Hence the present Civil Miscellaneous Appeal.

4. I have heard both sides and gone through the materials produced before me.

5. At the outset, the order passed by the 2nd respondent reveals that on site inspection, it was found that corn was cultivated in the property purchased by the appellant. He would also observe that agricultural lands were found in the eastern and southern side of the property. It is also observed that at a distance on the northern and western side, few lay-outs were found and three houses were constructed. Based on this, he would observe that the property purchased by the appellant remains an agricultural land and it was not converted into a lay-out. However, on enquiry, it was found that the similarly placed lands were sold for Rs.200/- per square feet. Since the property surrounding the appellant properties were sold for Rs.200/- to Rs.300/- per square feet, he determined the value at Rs.200/- per square feet.

6. The order passed by the 1st respondent would reveal that he delegated the District Registrar (Administration), Coimbatore to conduct site inspection, who, in turn, submitted his report vide proceedings No.4104/A4/2015 dated 30.06.2016. Based on that, the 1st respondent conducted an enquiry and passed orders on 13.4.2016. Perusal of the order of the 1st respondent also reveals that the property purchased by the appellant remains uncultivated land and that the lands on the eastern and southern side also remain uncultivated and on the northern side, there are two houses and there are chances of the property being converted into a lay-out, therefore, we confirm the value determined by the 2nd respondent was confirmed.

7. From the order of the 1st respondent, it is crystal clear that both the respondents have determined the market value not on the basis of actual user, but on considering the future user. It is well settled by various judgments that the market value of the land shall be determined on the nature of the property on the date of registration and shall not be on the basis of future user.

8. A Division Bench of this Court also had an occasion to consider the determination of market value of the property on the basis of future development, in the case of SPECIAL DEPUTY COLLECTOR (STAMPS), CHENNAI COLLECTORATE, SINGARAVELAR MALIGAI, CHENNAI, VS. THAJUNNISA AND OTHERS [2015 (6) MLJ 129] and held as under:-

> " 10. It is to be borne in mind that the Deputy Inspector General of Registration's Report dated 22.03.2002 does not indicate any conclusion which was arrived at to the effect that the Respondents / Petitioners lands in question were not agricultural lands. Just because the lands in question are having the potential of being converted as house sites in future, the authorities in this regard cannot allow their imagination to run riot or to indulge in assumptions, presumptions, surmises and conjectures etc., in the considered opinion of this Court."

Therefore, I am of the view that determination of market value on the basis of future user is not sustainable.

9. Secondly, the 1st respondent being an appellate authority is bound to conduct site inspection after giving due notice to the land owners. In sofar as putting the land owners on notice for inspection is a mandatory requirement. In the instant case, the 1st respondent has failed to conduct site inspection and also failed to issue notice to the appellants on the basis of it, it is a clear violation of principles of natural justice as well as Rule 11(A) of Tamilnadu Stamps (Prevention of Undervaluation of Instruments) Rules 1968.

10. Thirdly, the 1st respondent has no power under the Act to sub delegate his functions to his subordinates. As discussed above, he delegated his power to District Registrar (Administration) Coimbatore to conduct site inspection. On the one hand, the delegation is wrong and on the other hand, the site inspection conducted by the District Registrar without notice was in violation of principles of natural justice. The District Registrar is only an authority under the Registration Act and he is not an Officer defined under the Indian Stamp Act 1899. Therefore, the delegation made by the 1st respondent by itself is ultravires and that too, to an officer not concerned to the functions defined under the Indian Stamp Act is illegal.

11. Hence the order passed by the 1st respondent is vitiated for violation of natural justice, statutory provision and settled procedures laid down by law. Therefore, the impugned order passed by the 1st respondent in No.P.M.No.8604/N2/2015 dated 13.04.2016 is set aside and the matter is remitted back to the 1st respondent who shall consider the market value corresponding to the nature of the property of the appellant on the date of presentation of the documents and proceed further. While exercising his powers, the 1st respondent shall adhere to Rue 11 (A) of Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules 1968, after giving adherence to principles of natural justice and pass orders within a period of three months from the date of receipt of a copy of this order.

12. The Civil Miscellaneous Appeal is ordered accordingly. No costs. Consequently, the connected CMP.Nos.9520 and 9521 of 2016 are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Chief Controlling Revenue Authority-cum Inspector General of Registration,
Santhome High Road,
Chennai-28.

2. The District Revenue officer (Stamps),
Collectorate Compound,
Coimbatore.

3. The Sub Registrar,
Mettupalayam, Coimbatore

+1 CC to M/s. Sarvabhuman Associates sr 33597.
+1 CC to The Government Pleader sr 34693.

RLD(CO)
SP(08/02/2021)