IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.03.2019

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1664 of 2017 &
C.M.P.No.8902 of 2017

1. M.N. Subramaniam
2. M.N.Vijayashankar
3. M.N.Rangamani .. Appellants/Respondents

-vs-

1. The Chief Revenue Controlling Authority and Inspector General of Registration, Santhome High Road, Chennai 600 028.
2. The District Revenue Officer(Stamps) O/o.Chennai Collectorate Singaravelan Maligai, Chennai 600 001.
3. The Sub-Registrar of Registration, Padappai, Kancheepuram District. .. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 47A(1) of the Indian Stamp Act, 1899 r/w.Rule 9(5)(A) of the Tamilnadu (Prevention of Under Valuation of Instruments) Rules, 1968 against the orders passed in Na.Ka.No.30736/N1/2016 dated 24.03.2017 on the file of the Chief Revenue Controlling Authority and Inspector General of Registration, Chennai -28, modifying the orders of the second respondent in Na.Ka.C.Pa.No.138/02/06 dated 27.3.2006.

For Appellants : Mr.S.Kamadevan

For Respondents : Mr.T.M. Pappiah
Special Govt. Pleader (CS)

JUDGMENT

Challenging the order passed by the Chief Revenue Controlling Authority and Inspector General of Registration, in Na.Ka.C.Pa.No.138/02/06 dated 27.3.2006, the land owner/presentant of the document preferred the present appeal.

2. According to the appellants, they purchased agricultural lands comprised in SF.Nos.384/3, 384/1B, 3841B and 384/1C in Padappai Village measuring an extent of 25 cents , 25 cents and 94 cents respectively totaling 1.44 acres under three separate sale deeds dated 13.3.2002 and presented the document before the third respondent viz., The Sub Registrar, Padappai. The third respondent referred the documents for determination of market value to the 2nd respondent, viz., the District Revenue Officer (Stamps), Chennai. The 2nd respondent without affording an opportunity to the appellants, determined the market value at Rs.68/- per square feet in respect of the properties mentioned above.

3. Against which, the appellants preferred appeals to the 1st respondent, who, in turn, by his order dated 24.3.2017 without following the procedures and without assigning any reasons, has rejected the contention of the appellants and determined the market value at Rs.61/- per square feet. Aggrieved over the order passed by the 1st respondent the present Civil Miscellaneous Appeal has been preferred.

4. Heard both sides.

5. On a perusal of the order passed by the 1st respondent, it is seen that the lands in question were registered by three documents bearing Registration Nos.2307 of 2002, 2308 of 2002 and 2309 of 2002, measuring 144 cents together. According to the appellant, it is an agricultural land, however, the 1st respondent, in the order impugned, has relied on the inspection report dated 21.10.2016 submitted by the District Registrar and passed orders.

6. Even assuming that the inspection conducted by the District Registrar is correct, there is no finding as to the nature of the land. When the appellant is specifically claiming that the land in question is an agricultural land, there should have been some finding as to whether the land is an agricultural land or residential land or a commercial land. The order is very vague on the above aspect. But from the other observations, the admitted fact remains that the land situates in a low lying area i.e., four feet below the ground level and there are no housing plots adjacent to the property. In fact, in respect of survey No.384/1B, 1C, no value was available in the records of the 3rd respondent as on 1.4.2001. Insofar as the adjacent land situate in Survey No.384 /2, the documents were registered at the rate of Rs.4,66,500/- per acre for agricultural land and for housing plots, the value was entered as Rs.80/- per square foot. Inspite of the finding given by the inspecting officer that the property is lying with bushes and thorn shrubs and four feet below the ground level, the authority fixed the value at Rs.61/- per square feet without assigning any reasons. The order does not reveal as to

the situation of the property, survey number, layout or other specific details on the basis of which the value was arrived at.

7. As per Rule 11(A) of the Tamilnadu (Prevention of Under Valuation of Instruments) Rules, 1968, the appellate authority is mandated to conduct inspection after giving notice to the aggrieved parties and shall arrive at a value. The determination of the market value requires opportunity of personal hearing. But in the instant case, the appellate authority delegated the power to an incompetent authority to conduct inspection.

This Court in the judgment of 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. The failure on the part of the 2nd respondent to pass a final order within 3 months from the date of Form-I notice as mandated under rule 7 of the rules vitiates the entire proceedings. Form - I notice was issued on 17.05.2005 and the final order was passed on 05.12.2006, after 1 1/2 years, i.e., after 3 months and hence the entire proceedings are vitiated.
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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."

As held in the above judgment, the District Registrar is not an officer under the Indian Stamp Act and the delegation of powers is ultra vires.

8. Further principles of natural justice has not been followed during the process of valuation. The authority without ascertaining the nature of property as to whether it is an agricultural land or residential plot, had determined the value, which amounts to non-application of mind.

9. Hence, this Court is of the considered view that the impugned order stands vitiated for violation of principles of natural justice, statutory provisions and for non application of mind.

10. For the reasons stated above, I set aside the order passed by the 1st respondent in Na.Ka.C.Pa.No.138/02/06 dated 27.3.2006. The appeal is accordingly allowed. No costs. Consequently, the connected C.M.P.No.8902 of 2017 is closed. The respondents are directed to release the documents.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

TO:

1. The Chief Revenue Controlling Authority
and Inspector General of Registration,
Santhome High Road,
Chennai 600 028.

2. The Section Officer,
V.R Section,
High Court, Madras

+1cc to Mr.S.Kamadevan, Advocate sr.26662
+1cc to Government Pleader sr.27232

C.M.A.No.1664 of 2017 &
C.M.P.No.8902 of 2017

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