IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.03.2019

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.381 of 2017 &
CMP.No.2696 of 2017

B.Thiyagarajan

.. Petitioner/Appellant

-vs-

1. Tamilnadu Chief Controlling Revenue Authority/Inspector General of Registration, Chennai 600 028
2. Special Ddeputy Tahsildar (stamps duty), Salem Region, 3rd Floor, District Collectorate, Salem 636 001.
3. Sub Registrar, Puduchatiram, Namakkal District.
4. Deputy Inspector General of Registration, District Collector Office, Salem.
5. District Registrar, Administration Wing, Namakkal

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act 1899, praying to set aside the order of the 1st respondent made in Pa.Mu.No.4619/N2/2014 dated 15.10.2015 signed dated 27.10.2015 and the order of the 2nd respondent made in S.R.No.4497/2012 PCM signed dated 10.06.2013, consequent to direct the 3rd respondent to return the sale deed bearing document No.4519 of 2012 dated 03.12.2012 to the appellant.

For Petitioner : Mr.R.Malaichamy

For Respondent : Mr. T.M. Pappiah
Special Govt. Pleader
for R1 to R5

JUDGMENT

This Civil Miscellaneous Appeal is filed to set aside the order of the 1st respondent made in Pa.Mu.No.4619/N2/2014 dated 15.10.2015 signed dated 27.10.2015 and the order of the 2nd respondent made in S.R.No.4497/2012 PCM signed dated 10.06.2013 and consequently direct the 3rd respondent to return the sale deed bearing document No.4519 of 2012 dated 03.12.2012 to the appellant.

2. The appellant purchased a piece of agricultural land. He presented the document for registration before the 3rd respondent viz., Sub Registrar, Puduchatiram, Namakkal District for registration. The document was registered as Document No.4519 of 2012 and the third respondent has referred it to the 2nd respondent viz., Special Deputy Tahsildar (stamps duty), for determination of market value. The 2nd respondent fixed the value at Rs.160/- per square foot.

3. Aggrieved over the same, the appellant preferred an appeal before the 1st respondent viz., Tamilnadu Chief Controlling Revenue Authority/Inspector General of Registration, Chennai 600 028. It is contended that the land which is said to be registered is an agricultural land and he has raised corn and maize in that property. Therefore, he sought the 1st respondent to set aside the order of the 2nd respondent and re-determine the value on the basis of nature of land as available on the date of registration. However, the 1st respondent vide its order dated 15.10.2015 confirmed the market value determined by the 2nd respondent and rejected the appeal preferred by the appellant. Challenging the said order of the 1st respondent, the appellant has filed the present Civil Miscellaneous Appeal.

4. It is seen that the site inspection was conducted by the District Registrar, (Administration), Namakkal and he submitted a report on 18.5.2015, based on which, the impugned order came to be passed. The impugned order passed by the 1st respondent does not clearly disclose the nature of the land. Even though there is a specific objection raised that the property is an agricultural land, there is no finding to that effect. Further for conducting inspection, no notice was given to the appellant.

5. 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. 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 Tahsildar, 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."

This Court in the above cited judgment has held that the District Registrar is not a competent authority under the Indian Stamp Act. The 1st respondent - Inspector General of Registration is not empowered to delegate the powers to any one else and he shall conduct site inspection after giving notice to the parties concerned. Since the 1st respondent has failed to conduct inspection and no reason was recorded for arriving at the value at Rs.160/-, the impugned order stands vitiated for violation of statutory provisions, principles of natural justice and for non-application of mind.

6. Therefore, this Court is of the considered opinion that the order passed by the 1st respondent in proceedings Pa.Mu.No.4619/N2/2014 dated 15.10.2015 is not sustainable and accordingly, the same is set aside and the matter is remitted

back to the first respondent for fresh consideration.

7.The first respondent is directed to strictly adhere to Rule 11-A of the Tamil Nadu (Prevention of Under Valuation of Instruments) Rules, 1968, conduct site inspection after giving notice to the parties. He shall also afford an opportunity of personal hearing to the appellant before passing final orders on merits. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. Accordingly, the Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected CMP.No.2696 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

TO:

1. Tamilnadu Chief Controlling Revenue
Authority/Inspector General of
Registration, Chennai 600 028

2. Special Ddeputy Tahsildar (stamps duty),
Salem Region,
3rd Floor,
District Collectorate,
Salem 636 001.

3. Sub Registrar,
Puduchatiram,
Namakkal District.

4. Deputy Inspector General of Registration,
District Collector Office, Salem.

5. District Registrar,
Administration Wing, Namakkal

+1cc to Mr.R.Malaichamy, Advocate sr.27145
+1cc to Government Pleader sr.28048

nr 02/07/2019