IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2019

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

CMA NO.454 OF 2017

AND CMP NOS.3018 AND 3019 OF 2017

Dr.R.Jeyalakshmi ... Appellant/Appellant

VS.

1.Tamilnadu Chief Controlling Revenue Authority
cum Inspector General of Registration
No.12, Santhome High Road,
Chennai - 600 028.

2.The District Revenue Officer (Stamps)
District Collectorate
Rajaji Salai,
Chennai - 600 001. ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A(10) of Indian Stamps Act, against the order dated 29.04.2016 made in Proceedings in Letter No.52839/N1/2015 on the file of the first respondent.

For Appellant : Mr.T.R.Senthil Kumar

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

J U D G M E N T

The appellant purchased 69 cents of land in Sengundram Village and presented the document for registration before the concerned Sub Registrar and the same was registered as Document No.5810/2014. The appellant remitted the stamp duty as per the guideline value. However, the Sub Registrar referred the document for determination of market value to the second respondent. The second respondent fixed the market value at Rs.1600/- per Sq.ft. Aggrieved over the same, the appellant filed an appeal to the first respondent. The first respondent has confirmed the order of the second respondent. Challenging the same, the appellant is before this Court.

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2. From a perusal of the impugned order passed by the first respondent, it is seen that the market value came to be fixed on the basis of nature of property, proximity, usage, local enquiry and site inspection by the second respondent. But there is no reference as to the site inspection conducted by the first respondent.

3. Rule 11-A of the Tamil Nadu (Prevention of Under Valuation of Instruments) Rules, 1968, reads as under:-

> "11-A. Decision of the appellate authority. - The appellate authority may, for the purpose of deciding an appeal,-
>
> (a) call for any, information or record from any public office, officer or authority under the Government or any local authority;
>
> (b) examine and record statements from any member of the public officer of authority under the Government or the local authority; and
>
> (c) inspect the property after due notice to the parties concerned."

As per Rule 11-A of the Tamil Nadu (Prevention of Under Valuation of Instruments) Rules, 1968, it is mandatory on the part of the appellate authority to conduct site inspection after due notice to the parties concerned.

4. Per contra, it is noted that the site inspection was conducted by the District Registrar (Administration) Chenglepet, on 16.03.2016. It is well settled that the District Registrar is not a competent authority to value the property. He is only an Officer under the Registration Act and not a competent authority under the Indian Stamp Act. In the instant case, the order passed by the Appellate Authority is totally based on the report of the District Registrar (Administration) Chenglepet.

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5. It is well settled in various judgments of this Court that inspection of the property by the appellate authority is a mandatory requirement and failure to do so, will vitiate the entire proceedings. 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.
>
> 18. .....
>
> 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 found in the above referred judgment, the delegation of power to subordinate authority and the order passed by the appellate authority based on the report of the District Registrar vitiates the entire proceedings. Further, the parties were not put on notice for site inspection. Therefore, this Court is of the considered opinion that the impugned order is not sustainable in law.

6. Accordingly, the order dated 29.04.2016 passed in Proceedings in Letter No.52839/N1/2015 by the first respondent is set aside and the matter is remitted back to the first respondent for consideration afresh, in accordance with law. The appellant is entitled to present all the required documents before the first respondent during the personal hearing and make his submissions. The first respondent is directed to complete the task in compliance with Rule 11-A of the above Rules and principles of nature justice within a period of three months from the date of receipt of a copy of this order.

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7. In fine, the Civil Miscellaneous Appeal is disposed of with the above observations and directions. No costs. Consequently, connected civil miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.Tamilnadu Chief Controlling Revenue Authority
cum Inspector General of Registration
No.12, Santhome High Road,
Chennai - 600 028.

2.The District Revenue Officer (Stamps)
District Collectorate
Rajaji Salai,
Chennai - 600 001.

+1cc to Mr.T.R.Senthilkumar, Advocate SR.39306
+1cc to the Government Pleader Sr.40615

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