

Neutral Citation No. - 2025:AHC:13334

Reserved on 23.1.2025

Delivered on 27.1.2025

Court No. - 2

Case :- WRIT - C No. - 1470 of 2007

Petitioner :- M/S Kurele Paper Mills Pvt. Ltd.

Respondent :- State Of U.P. Thru Secretary Finance

Counsel for Petitioner :- Pankaj Bhatia

Counsel for Respondent :- S.C.

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Mr. Gopal Verma, learned counsel for the petitioner and Ms. Sadhna Singh, learned Standing Counsel for the State-respondents.
2. The present writ petition has been filed for quashing the order 13.9.2006 passed by Chief Controlling Revenue Authority, UP at Allahabad in Stamp Revision No. 57-58 of 04-05.
3. Brief facts as stated in the writ petition are that M/s Asha Edible Oils Private Limited was wound up under the directions of this Court and plant and machinery as well as land of the company was taken over by the Official Liquidator and thereafter the Official Liquidator has issued an advertisement for sale of the properties on as is where is basis. The petitioner has participated in the auction and being the highest bidder, two properties of the company were finalized in favour of the petitioner and its sale was confirmed by this Court. On 8.8.2002, the petitioner deposited final payment and got composite sale deed executed by the Official Liquidator after

depositing the requisite stamp as per the valuation of the property. However the proceedings under Section 47 A of the Indian Stamp Act was initiated on 1.10.2002 to which the petitioner has filed objection in which it has been submitted that since the petitioner has purchased the property in question through auction proceeding which has been confirmed by the High Court, the property in question cannot be said to be under valued. But being not satisfied with the reply / objection of the petitioner, the respondent authority has passed the order dated 9.8.2004 imposing deficiency of stamp together with penalty and interest against which the petitioner has preferred a revision, which has been dismissed vide order dated 13.9.2006. Hence the present petition.

4. Learned counsel for the petitioner submits that petitioner being the highest bidder and being successful in the auction proceeding conducted by the Official Liquidator, has purchased the property in question, which had fetched best market value in the auction, therefore, the proceedings under Section 47 A cannot be said to be justified.

5. In support of his submission, learned counsel for the petitioner has relied upon the judgement of Apex Court in the case of **Registrar of Assurances and another Vs. ASL Vyapar Private Ltd and another, 2022 Live Law (SC) 942.**

6. *Per contra*, learned Standing Counsel has supported the impugned order and submits that the property in question was under valued, therefore, the proceedings have rightly been initiated as it does not reflect true and correct market value.

7. In support of her submission, she had relied upon the judgement of this Court in the case of **Vishwa Nath Agrawal Vs. Sate of UP and others, 2004 (4) AWC 3604.**

8. After hearing learned counsel for the parties, the Court has perused the records.

9. It is not in dispute that the property in question was purchased by the petitioner in pursuance of the order passed by this Court in the winding up proceedings of the company in liquidation. The petitioner being the highest and successful bidder in respect of the property in question has got the sale deed executed in its favour. The record further shows that the proceedings were initiated only on the basis of presumption that the true and correct market value of the property in question was not disclosed.

10. The issue in hand has already been decided by the Apex Court in the case of **Registrar of Assurances and another (supra)**, relevant paragraphs of which are quoted hereunder:-

21. It was pleaded that the reliance placed on Kayjay Industries¹³ case was improper as it had been observed in para 9 that “court sales and market prices are distant neighbours.” The ratio of Pawan Kumar Verma¹⁴ case would have no application as it is not an issue of suit valuation. Moreover, the observations of the Supreme Court that the Registering Authority will have an opportunity to make back reference to the concerned court, and such court will freshly determine the suit (supra) (supra) (supra) valuation, is not proper procedure as the court stands on a higher footing, has the sanctity of law and cannot be altered by the Registering Authority on the pretext of generating higher revenues.

Conclusion:

22. On the conspectus of the matter, we have not the slightest hesitation in upholding the view that the provision of Section 47A of the Act cannot be said to have any application to a public auction carried out through court process/receiver as that is the most transparent manner of obtaining the correct market value of the property.

29. We find hardly any rational in adopting the submissions on behalf of the appellant. The provisions are not dissimilar in the different enactments in its fundamentals; the “reason to believe” of a Registering Officer has to be based on ground realities and not some whimsical determination; the Registering Authority cannot be permitted to doubt the liquidation proceedings as having some superior knowledge when it is a court monitored process where the court would take care of aspects such as cartelization; the Registering Authority can hardly be said to be the only authority with knowledge of the subject to the exclusion of the court; the independent determination by a Registering Officer would not apply to a court sale but to a private transaction; the Stamp Act being a fiscal statute, while being interpreted strictly and literally would not imply some kind of absolute power.

11. In the aforesaid judgement the Apex Court has held that the provisions of Section 47 A of the Indian Stamp Act will have no application in the cases of public auction being carried out through court process/ receiver. It has been further held that auction is the most transparent manner to obtain the correct market value of the property.

12. In the present case, the property in question was purchased by the petitioner through auction proceeding being carried out by the Official Liquidator with permission of the Court in which the petitioner being the highest and successful bidder in the respect of the property in question has got the sale deed executed in its favour. Once the property in question has

been purchased through auction proceeding, it cannot be said that the same is under valued.

13. So far as the judgement relied upon by learned Standing Counsel appearing for the State in the case of **Visha Nath Agrawal (*supra*)** is concerned, the same is of no aid to her in view of the judgement passed by Apex Court in the case of **Registrar of Assurances and another(*supra*)** .

14. In view of the aforesaid discussions and looking to the facts and circumstances of the case as well as law laid down by the Apex Court as referred herein above, the impugned order cannot be sustained in the eyes of law and same is hereby quashed.

15. The writ petition succeeds and is **allowed**.

16. The authority concerned is directed to refund any amount deposited by the petitioner along with interest @ 4% per annum from the date of its deposit till the date of refund, within a period of two months from the date of production of a certified copy of this order.

Order Date :- 27.1.2025

Rahul Dwivedi/-