NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.2597 of 2009

State of Chhattisgarh, through Collector, Bilaspur (CG), through Sub Registrar, Bilaspur (CG)

---- Petitioner

Versus

1. Smt. Neeta Bajaj, W/o P.K. Bajaj, through Power of Attorney Holder, P.K. Bajaj, S/o late H.K. Bajaj, R/o E-14, Ratlam Kori, Indore (MP) (Seller)

2. Smt. Namita, D/o late Shri Nandlal Gambhir, R/o Near Bukhari Petrol Pump, Link Road, Tahsil and District Bilaspur (CG) (Purchaser)

(Appellants)
---- Respondents

For Petitioner:	Mr. Prasoon Kumar Bhaduri, Govt. Advocate.
For Respondent No.2:	Mrs. Fouzia Mirza, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

28/11/2016

1. The State / petitioner has filed this writ petition questioning the order passed by the Board of Revenue whereby the Board of Revenue has allowed the appeal preferred by the respondents herein and set aside the order of the Collector, Stamps dated 20-8-2007 by which the deficit stamp duty of Rs.2,37,240/- was demanded.

2. Mr. Prasoon Kumar Bhaduri, learned Government Advocate appearing for the State / petitioner, would submit that the order of the Board of Revenue is not in accordance with law and the Board of Revenue has committed legal error in setting aside the order passed by the Collector, Stamps.

3. On the other hand, Mrs. Fouzia Mirza, learned counsel appearing for respondent No.2, would support the order of the Board of Revenue and would rely upon a decision of the coordinate Bench of this Court dated 14-7-2014 passed in W.P.(Art. 227) No.2784/2010 (State of Chhattisgarh v. The Board of Revenue, Chhattisgarh Bilaspur and others).

4. I have heard learned counsel for the parties, perused the order impugned and considered the rival submissions made therein and also gone through the material available on record with utmost circumspection.

5. In exercise of powers conferred by Section 75 read with Section 47-A of the Indian Stamp Act, rules have been framed by the State Government which lay down guidelines for determination of market value, styled as the Indian Stamp Act (Chhattisgarh Prevention of Undervaluation of Instruments) Rules, 1975 (for short 'the Rules of 1975'). The provisions contained in Rule 4 to 8 of the Rules of 1975 not only regulate the procedure to be followed by the Collector while undertaking an exercise of determination of market value in exercise of powers under Section 47-A of the Stamp Act but also the principles which shall be kept in mind while determining the market value. Rule 5 lays down relevant factors to be taken into consideration in the matter of determination of market value in case of land or house sites or building or properties other than land, house site and building, as the case may be.

6. The Collector while undertaking the exercise of determination of market value is required to apply its mind by taking into

consideration relevant factors as specifically enumerated in clause (i) to (vi) of clause (b) of Rule 5 of the Rules of 1975 with the authority to exercise discretion in terms of provisions contained in clause (vii) & (viii).

7. After hearing learned counsel for the parties, I am of the considered opinion that the present case is squarely covered by the decision rendered by a coordinate Bench of this Court in State of Chhattisgarh (supra) in which in paragraph 14, the coordinate Bench of this Court observed as under: -

> "14. The Board of Revenue interfered with the order of the Collector considering mainly that the rate arrived by the Collector is almost 10 times the rate fixed under existing guidelines. The Board of Revenue has also taken into consideration that the Collector even though did not accept the spot inspection report, arrived at such a high market value. Even if the land is accepted to be in the near vicinity of the commercial area, the location of the land, even according to the order of the Collector is not directly attached to the main road but it is 40 - 50 feet away from the main road. In the order of the Collector, there is no specific mention nor any material placed as to what are the rates of sale and purchase of the house site of the near vicinity. Taking into consideration all these aspects of the matter, the Board of Revenue has interfered with the order of the Collector."

8. In view of the decision rendered by the coordinate Bench of this Court, which squarely applies to the facts and circumstances of the present case, the present writ petition is dismissed. Parties shall bear their own costs.

Sd/-
(Sanjay K. Agrawal)
Judge

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