NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No.1929 of 2015

1. Manilal Patel S/o Karsan Bhai, Aged About 55 Years R/o Karsan Bhai And Brothers, Opposite S B I, Bilaspur Road, Fafadih, Raipur, Tahsil And District Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mantralaya, Mahanadi Bhawan, Naya Raipur, Distt. Raipur (Chhattisgarh)

2. Convenor, Central Valuation Board & Inspector General Of Registration, Old Red Cross Building, Distt. Raipur (Chhattisgarh)

3. Collector/Chairman, District Valuation Committee, Distt. Raipur, Chhattisgarh.

4. District Registrar/Convenor, District Valuation Committee, Distt. Raipur, Chhattisgarh.

---- Respondent

For Petitioner	Dr.N.K. Shukla, Sr. Advocate with Shri Parag Kotecha, Advocate
For Respondent/State	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

C A V Order

18/04/2016

1. Challenge in this petition under Article 226 of the Constitution of India is to the legality and validity of the Market Value Guidelines (Annexure – P/3) published by the Central Valuation Board/District

Valuation Committee, Raipur, prescribing the market value of the property on which the stamp duty will be charged for transfer of the immovable property during the financial year 2015-16.

2. Petitioner is a colonizer and has started construction of a commercial complex after obtaining required permission from different statutory bodies. Prospective buyers are willing to purchase the property constructed by him, however, in view of the guidelines determining the market value, which is many more times than the actual market value, the property is beyond the reach and capacity of the prospective buyer, therefore, it prejudiced the rights of the petitioner as well as of the buyers.

3. Challenge is specifically thrown by citing examples that for Ward No.23 Rani Laxmi Bai Ward the market value of the property falling between Khamtarai Police Station to Divisional Railway Office, up to Waltair Railway Crossing, is fixed at Rs.15,000/- per sq. mtr. when the property is not on the main road, but off the main road, however, for the property comprising in Om Complex, Mansha Chambers and Karsan Bhai Chambers the market value of the property off the road (inside the main road) has been determined at Rs.36,000/- per sq. mtr. It is, thus, contended that the fixation of market value is arbitrary and has been arrived at without proper application of mind.

4. It is also argued that the petitioner’s complex namely; Karsan Bhai Chambers is one single project for which a different market value

cannot be fixed because the guiding factor or the unit for fixation of market value is the ward/locality or the vicinity and not on the basis that it is a complex or otherwise. The petitioner has prayed for fixation of the market value as has been fixed for Entry No.2 of ward No.23, which is adjoining to Karsan Bhai Chambers. It has also been prayed, in the alternative, that the land/property of the petitioner be excluded and may not be clubbed with Om Complex/Mansha Chambers, which is in front of the entry point of Entry No.7 of ward No.23 because it is far away from Om Complex and Manna Chambers.

5. Per contra, learned counsel appearing for the State has argued that fixation of market value guidelines is an expert job conducted by an expert committee, therefore, it should be left to the committee and the petitioner cannot invoke writ jurisdiction for such matter. Learned State counsel would refer to the provisions contained under the MP/CG Preparation and Revision of Market Value Guidelines Rules, 2000 ('the Rules, 2000' in short) and the MP/CG Prevention of Under-valuation of Instruments) Rules, 1975 ('the Rules, 1975' in short).

6. Admittedly, the market value guidelines have statutory force because the same has been fixed by the committee in exercise of powers conferred to it under the Rules, 2000. Rule 3 of the Rules, 2000 provides for constitution of Central Valuation Board and its functions. Similarly, Rule 4 provides for constitution of District Valuation

Committee and Sub District Valuation Committee & their functions. The Central Valuation Board consists of Inspector General of Registration, Engineer-in-Chief, Public Works Department or his representative not below the rank of Chief Engineer, Director of Town and Country Planning or his representative not below the rank of Joint Director, Commissioner of Land Records or his representative not below the rank of Deputy Commissioner, Director (Agriculture) or his representative not below the rank of Joint Director, Chief Conservator of Forest or his representative not below the rank of Conservator of Forests, any other members nominated by the State Government and the Deputy Inspector General of Registration and Stamps.

7. The Board is enjoined to receive information/data of property transactions along with the provisional rates for analysis and final approval and, thereafter, to evolve norms for fixation of market values in respect of valuation of lands, buildings and various kinds of interests in the immovable property.

8. The District Valuation Committee consists of Collector, Executive Engineer, Public Works Department, Executive Engineer, Water Resources Department, Commissioner Municipal Corporation or Chief Municipal Officer at the District Head Quarter, Chief Executive Officer, Zila Panchayat, Superintendent, Land Records and other officers of different departments of the State Government including the District Registrar of the District Registry.

9. The District Valuation Committee has been conferred power to collect information on property values and property trends, apply the same in from of primary data along with the existing data and, thereafter, analyse the proposed values in Forms I, II and III and send the provisional values for approval of Central Valuation Board and to issue the market value guidelines for different areas on approval.

10. Rule 5 of the Rules, 2000 provides that the market value guidelines shall be revised annually from 1st April whereas Rule 6 provides procedure to prepare market value guidelines. It says, while working out the values of immovable property, the committee shall take into account the established principles of valuations mentioned in Rule 5 of the Indian Stamp Act (MP/CG Prevention of Under-valuation of Instruments) Rules, 1975 and any other factors which may deem necessary.

11. The above scheme of Rules, 2000 clearly indicates that the proposal for the market value guidelines prepared by the district valuation committee is done by a committee under the Chairmanship of Collector along with senior officers at district level of other departments, therefore, there is inbuilt sanctity to the nature of duties performed by the committee at the district level. The approval of the proposed rates is done by the Central Valuation Board which again consists of superior officers like Inspector General of Registration and other State level officers of different departments. The members

of the District Committee and the Central Valuation Board belong to relevant departments like PWD, Forest, Water Resources, etc. and not that of any other department like Women & Child Development, Tribal Welfare, efc. which have no concern in dealing with the properties or its value. Thus, the constitution of committee itself has been made by the State Government in exercise of its delegated legislative power, with application and keeping in mind all the relevant factors, which would guide the district committee in proposing the rates of properties for the purpose of imposition of stamp duty. Thus, the functions performed by the Committee and the Board are like the functions performed by an expert body, which need not be lightly interfered with unless it suffers from wednesbury unreasonableness.

12. A bare perusal of the market value guidelines would reveal that there are other wards where the market value of the property falling on the road and those inside the road carry huge difference. For instance, Entry No.3 of Ward No.5 Banjari Mata Ward carries the rate of Rs.53,000/- per sq.mtr. on the main road, but it carries rate of Rs.15,000/- per sq.mtr. when the property is inside the road. Similarly, Entry No.4 of Ward No.4 carries the value of Rs.22,500/- per sq.mtr. on the road whereas it is Rs.6,500/- per sq.mtr. off the road. Similar is the case with Entry No.1 of Ward No.7 where the valuation of Rs.28,700/- per sq.mtr. on the road side and Rs.7,500/- per sq.mtr. off the road. There are umpteen number of such

instances, therefore, it cannot be said that the area pointed out by the petitioner where his commercial complex has come up has been singled out for higher valuation.

13. The Supreme Court in **Greater Kailash Part II Welfare Assn. and Others v. DLF Universal Ltd. and Others**[1], held that the writ Court should not ordinarily interfere with the decision taken by the expert body. The Supreme Court held thus in para 56 :

> 56. From the materials on record there is no ambiguity that sanction was granted to respondent 1 to make the above-mentioned conversion strictly in accordance with the Rules and Building Bye Laws, even to the point of consultation by the Deputy Commissioner of Police (Licensing) with the Deputy Commissioner of Police (Traffic) on the specific problem apprehended by the appellants. It is only after clearance was obtained from the Deputy Commissioner of Police (Traffic) that a No-Objection Certificate was issued by the Deputy Commissioner of Police (Licensing) and sanction was granted by the Municipal Corporation of Delhi. Although, it has been argued on behalf of the appellants that the Deputy Commissioner of Police (Traffic) had mechanically given his consent to the plan, we have to respect his decision and the decision of the Municipal Corporation who are the experts in such matters.

14. In **State of Uttar Pradesh and Others v. Rakesh Kumar Keshari and Another**[2], the Supreme Court has considered the scope of judicial review in matters considered and decided by the executive

1 (2007) 6 SCC 448
2 (2011) 5 SCC 341

authorities on subject, which falls within their exclusive domain. The Supreme Court in paras 27, 28 & 29 held thus :

> 27) Allowing the appeal filed by the State this Court in Johri Mal case has held that for a public law remedy enforceable under Article 226 of the Constitution, the actions of the authority need to fall in the realm of a public law--be it a legislative act of the State, an executive act of the State or an instrumentality or a person or authority imbued with public law element.
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> 28) This Court in Johri Mal case has further held that the question is required to be determined in each case having regard to the nature of and extent of authority vested in the State. After holding that the power of judicial review is not intended to assume a supervisory role or don the robes of the omnipresent, this Court has, in terms, ruled that the power of judicial review is not intended either to review governance under the rule of law nor do the Courts step into the areas exclusively reserved by the Constitution to the other organs of the State and has further cautioned that the Court shall not ordinarily interfere with a policy decision of the State.
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> 29) The Court in Johri Mal case also held that the decisions and actions which do not have adjudicative disposition would not strictly fall for consideration before a judicial review court. According to this Court the limited scope of judicial review is :
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> > (i) Courts, while exercising the power of judicial review, do not sit in an appeal over the decisions of administrative bodies;
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> > (ii) A petition for judicial review would lie only on certain well-defined grounds;

> (iii) An order passed by an administrative authority exercising discretion vested in it, cannot be interfered in judicial review unless it is shown that exercise of discretion itself was perverse or illegal;
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> (iv) A mere wrong decision without anything more is not enough to attract the power of judicial review;
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> (v) The supervisory jurisdiction conferred on a Court is limited to seeing that the Tribunal functions within the limits of its authority and that its decisions do not occasion miscarriage of justice; and
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> (vi) the Court shall not ordinarily interfere with a policy decision of the State.

15. For the foregoing and considering the limited scope of interference available to this Court under Article 226 of the Constitution of India in matters where the decision has been taken by an expert statutory body, this Court does not find any good ground to interfere in the matter.

16. Accordingly, the writ petition is dismissed. Sd/-

Judge

Prashant Kumar Mishra

Gowri