IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10072 OF 2015

Ms. Niki Lawyer .... Petitioner

versus

Mr. Amogh M. Ghaisas & Ors. ... Respondents

Mr.Mangal Bhandari i/b Pranjali Bhandari for the Petitioner.
Mr. Amogh M. Ghaisas, Respondent No.1 in person.
Mrs. M.S. Bane 'B' Panel Counsel for Respondent Nos.2 and 3.

CORAM : S.C.GUPTE, J.
DATE : 8th AUGUST, 2016

P.C. :

1. Heard learned Counsel for the parties.

2. The Petition challenges enhanced valuation of stamp duty in appeal under section 32-A of the Maharashtra Stamp Act by the Inspector General of Registration and Controller of Stamps(“IGR”).

3. The dispute between the parties concerns, in the first place, dutiability of a gift deed registered in the State of Karnataka in respect of an immovable property situated within that State.

The dispute also concerns the valuation of the property. So far as the dutiability aspect is concerned, it is contended by the Petitioner herein that the document is admissible to stamp only in the State of Karnataka and not in Maharashtra. The dutiability aspect was before the IGR in an appeal preferred by the Petitioner, namely, Appeal No.13 of 2014. That appeal has since been heard and rejected by the IGR. A Review Application preferred by the Petitioner against that order is pending before the IGR. Considering the pendency of the review application, I do not propose to make any observations on the aspect of dutiability. In case the Petitioner is aggrieved by any order passed on review, all contentions on merit insofar as dutiability is concerned are kept open, to be agitated by the Petitioner in an appropriate challenge.

4. The present petition, as noted above, merely challenges the order passed by the IGR on another appeal enhancing the valuation of the property and consequently, stamp duty payable on the document. Insofar as the valuation is concerned, the original basis of valuation when the matter was brought to the Joint District Registrar and Collector of Stamps, Pune City – Respondent

No.2 herein, was valuation of the properties based on guidelines issued by the authorities of Karnataka as on 15/09/2011, i.e., the date of execution of the gift deed. The Joint District Registrar decided the total value of the property for the purpose of stamp duty at Rs.2,40,48,500/-. Both the Petitioner as well as Respondent No.1 herein, who had carried the matter of valuation before the Joint District Registrar, challenged the determination of such valuation. The first Respondent's challenge was repelled by the IGR on the ground of want of locus on his part to challenge the adjudication of stamp duty. The learned IGR, however, on the Petitioner's appeal, passed an order dismissing the appeal and enhancing the market value of the property to Rs.4,28,75,000/- and determining the stamp duty payable thereon at Rs.8,57,500/-. Such enhancement was on the footing that the sale instances on record before the Joint District Registrar and Collector of Stamps showed that the market value of the property, going by the rates of adjoining properties, was Rs.1,755/- per sq.ft, whereas the market value of the building based on the ready reckoner rate was Rs.700/- per sq.ft. Based on this assessment, the total market value of the land and building was determined by the

IGR at Rs.4,28,75,000/-. Based on this valuation, the stamp duty payable on the gift deed was worked out to Rs.8,57,500/-.

5. There is no infirmity to be found in the valuation of the property, based on comparable market instances. The instances were before the Adjudicating Authority, namely, Joint District Registrar and Collector of Stamps. Based on these instances, the Joint District Registrar and Collector of Stamps could not have gone merely on the guideline value of the property. If this valuation and stamp duty payable thereon is corrected in appeal, after taking into account these comparable sale instances, the appellate order cannot be faulted on the ground either that it is perverse or it is impossible. The impugned order is within the jurisdiction of the appellate authority; it is based on evidence; it does not take into account any non-germane and irrelevant material, and it does not disregard any relevant or germane material. In the premises, no fault can be found with the impugned order on the question of valuation.

6. There is, accordingly, no merit in the petition and the same is dismissed. No order as to costs.

7. Respondent No.3 shall, however, determine the review application of the Petitioner, particularly, the dutiability aspect in the pending review application, without being influenced by the observations made in this order. All contentions of the parties on merits in respect of dutiablity are expressly kept open. In the meantime, till the dutiability aspect is finally determined by the IGR on the review application, and for a period of two weeks thereafter, in case the order thereon goes against the Petitioner, the impugned demand notices issued by the stamp authorities, namely, **Exhibits "O" and "P"** to the present petition, shall not be implemented.

(S.C.GUPTE, J.)