

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 279 of 2016****Reserved on 21.06.2017****Delivered on 27.06.2017**

Manilal Patel S/o Karsan Bhai, aged about 56 years, R/o Karsan Bhai and Brothers, Opposite S.B.I. Bilaspur Road, Fafadih, Raipur, Tahsil and District Raipur, (Chhattisgarh)

---- Appellant**Versus**

1. State of Chhattisgarh through the Secretary, Department of Revenue, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (Chhattisgarh)
2. Convener, Central Valuation Board & Inspector General of Registration, Old Red Cross Building, District Raipur, (Chhattisgarh)
3. Collector/Chairman, District Valuation Committee, District Raipur, (Chhattisgarh)
4. District Registrar/ Convener, District Valuation Committee, District Raipur, (Chhattisgarh)

---- Respondents

For Appellant	:	Dr. N. K. Shukla, senior advocate assisted by Mr. Parag Kotecha, Advocates
For Respondent/State	:	Shri B. Gopa Kumar, Dy. Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

CAV JUDGEMENT**Per P. Sam Koshy, Judge**

The appellant/writ petitioner in the present writ appeal has challenged the order dated 18.04.2016 of the learned Single Judge in WPC No.1929 of 2015. The petitioner through the writ petition had questioned the document Annexure P-3 i.e. the guidelines for fixing market value of the property at Raipur district for the year 2015-16 particularly in Ward no.23 in respect of the building constructed by writ petitioner. The building or the construction built by the petitioner is known as Karsan Bhai Chambers situated in timber market on

the road between Lal Chowk to Sindhu Bhawan in Rani Laxmin Bai ward i.e. ward no.23.

2. The challenge to the said guidelines was on the ground that the fixation of market value was arbitrary and also discriminatory. Arbitrary to the extent that there is no justification for enhancing the rate fixing the market value at Rs.90,000/- per square meter which in fact is the rate or the market value of the property/building situated on the main road. Discriminatory on the ground that the said rate has been fixed on the property belonging to the petitioner whereas the rate of the property which situates immediately after the property of the petitioner i.e. beyond 20 meters from the main road is substantially low. It was also the contention of the petitioner that the fixation of market value is bad in law for the reason that it appears to have been done only on the property of the petitioner. It is exclusively for the said property and not for the area, ward or street.

3. The writ Court refused to entertain the writ petition on the ground that there is very limited scope of interference while invoking writ jurisdiction under Article 226 of the Constitution of India in a challenge to the market value fixed by an expert body. According to the Single Bench, the market value guidelines are prepared by a committee of experts in this field and they fix the rate taking into consideration the ground realities after survey of each of the areas and the said committee is headed by none other than the Collector of the same district.

4. The learned senior counsel appearing for the appellant/petitioner submitted that the order of the learned single bench does not lay correct proposition of law and the same deserves to be set aside, for the reasons:-

- a) The property of the petitioner situates at a different road.
- b) The petitioner's property cannot be compared with Om Complex or Mansa Chamber as these properties situate on the main road and the petitioner's property is on the side road.

- c) The levy should be area wise and not complex wise or building wise. The assessment made is without any basis and the actual market value of the property had not been taken into consideration.

5. Per contra, the State counsel opposing the petition submitted that, there is no merit on the arguments of the appellants. He further submitted that the findings of the learned Single Bench is well reason and based on judicial precedents and therefore there is no scope of interference in the order of the Writ Court and prayed for its dismissal.

6. Having heard the rival contentions it would be trite at this juncture to refer to Rule 5 of the Chhattisgarh Prevention of Undervaluation of Instruments Rules, 1975 (hereinafter referred as "CPUI Rules") which lays down the principles for determination of market value. Rule 5 of CPUI Rules lays down guidelines in respect of four categories of properties, which are; (a) in the case of land (b) in the case of house sites (c) in the case of buildings and (d) in the case of properties other than lands, house sites and buildings. So far as the property belonging to the petitioner is concerned, it would definitely not fall within the category of c and d of the Rule 5 of CPUI Rules. So far as categories a and b are concerned, it would be relevant to refer to Clause-vi of category a i.e. in the case of land which for ready reference reads as:

- (vi) Value of adjacent land, nearness to road and market, distance from village site, level of land, transport facilities, facilities available for irrigation in any form.

Clause-ii of category "b" property i.e. in the case of house sites also reads as:

- (ii) nearness to roads, railway station, bus route;

7. A plain perusal of these two clauses as reproduced above clearly reflect that these are the basic principles which have been kept in mind by the Committee constituted for preparation of market value. It would be pertinent to take note of the fact that the market value of Om Complex/Mansa Chamber as

per the guidelines that were framed in the year 2013-14 was Rs.80,500/- and anything beyond 20 meters from the said Complex was Rs.31,310/-. As regards Om Complex and Mansa Chamber are concerned, the rate has been revised at Rs.90,000/- and Rs.36,000/- per square meter. It is this rate which has also been fixed for the petitioner's property i.e. Karsan Bhai Chambers. It appears that all these three properties i.e. Om Complex, Mansa Chamber and Karsan Bhai Chambers are in nearby vicinity or adjacent except for the approach road to the property of the petitioner i.e. Karsan Bhai Chambers.

8. If we look at the Clauses referred in the preceding paragraphs in respect of the principles for determining market value, it would clearly reflect that the conditions like value of adjacent land, nearness to road and market are the vital factors for deciding market value. As per the guidelines framed for the year 2013-14, the market value of Om Complex/Mansa Chamber was Rs.80,500/-. Therefore, taking into consideration the value of adjacent land, nearness to road and market and level of land, it cannot be said to be an arbitrary decision bringing the petitioner's property also along with the category of Om Complex and Mansa Chamber which is adjacent to them of which the rate was already fixed in previous year at Rs.80,500/- and it has now been revised at Rs.90,000/-. Thus, it cannot be said to be a steep rise in the market value. The petitioner has nowhere in the petition has stated that his property is not in the nearby vicinity of Om Complex or Mansa Chamber and therefore, the rate fixed by the Government cannot be said to be arbitrary or discriminatory. It also cannot be lost sight of the fact that the property otherwise situates in the heart of the capital city of Raipur which all the more must have weighed in the mind of the committee constituted for deciding the market value of the said property.

9. We are in full agreement of the view taken by the learned Single Bench on the said legal position that of the scope of judicial review in matters where the issue arises on a report or a decision of an expert body. There are a catena of

decisions of the Hon'ble Supreme Court which hold that once when the policy decision is based upon the report of an expert body committee, the writ Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution should not interfere with it lightly.

10. In view of the aforesaid facts and circumstances of the case and also taking note of the reasons assigned by the learned Single Bench while deciding the writ petition, we do not find any strong or good ground raised by the appellant warranting interference with the impugned judgment.

11. The writ appeal, thus, being devoid of merits, deserves to be and is accordingly dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE