IN THE HIGH COURT OF JUDICATURE AT BOMBAY, AURANGABAD BENCH, AT AURANGABAD.

Writ Petition No. 07559 of 2015

District : Jalgaon

Avenue Supermarts Pvt. Ltd.,
An-Janeya Co-op. Housing Society
Limited, Orchid Avenue,
Opp. Hiranandani Foundation School,
Pawai, Mumbai - 400 076,
Through its Legal Manager /
Authorized Person,
Shri Krushnan Balasubramanium. .. Petitioner.

versus

1. The State of Maharashtra,
   Through its Secretary,
   Revenue & Forest Department,
   Mantralaya, Mumbai.

2. Deputy Inspector General
   of Registration &
   Deputy Controller of Stamps,
   Division Nashik, Udyog Bhavan,
   Vth Floor, Block No.22,
   Near ITI Signal,
   Trimbak Road, Satpur,
   Nashik - 422 007.

3. Collector of Stamps /
   Joint District Registrar,
   Class-I,
   Central Administrative Building,
   1st Floor, Near Collector Office,
   Akashwani Chowk, Jalgaon,
   District Jalgaon.

4. Joint Sub-Registrar Stamps,
   Class-II,
   Central Administrative Building,
   1st Floor, Near Collector Office,
   Akashwani Chowk, Jalgaon,
   District Jalgaon. .. Respondents.

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Mr. Santosh G. Chapalgaonkar, Advocate, for the petitioner.

Mr. S.P. Tiwari, Asst. Government Pleader, for respondents no.01 to 04.

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CORAM : SUNIL P. DESHMUKH, J.

DATE : 20TH JULY 2017

ORAL JUDGMENT :

01. Rule. Rule made returnable forthwith. Heard learned counsel for the petitioner and learned asst. government pleader finally by consent.

02. The petitioner is aggrieved by order dated 06-06-2014, a final order directing the petitioner to deposit a sum of Rs. 51,82,560/- towards the stamp duty for conveyance executed in its favour way back on 10-02-2011. The appeal therefrom by the petitioner before Deputy Inspector General of Registration & Deputy Controller of Stamps, pursuant to the provisions of the Maharashtra Stamps Act did not bear desired result for the petitioner and as a matter of fact, has resulted into further enhancing the amount payable towards the stamp duty, consequent upon the valuation as has been referred to in the appellate award.

03. Mr. S.G. Chapalgaonkar, learned counsel appearing for the petitioner, refers to various aspects, *inter alia,* contending that

what had been purchased under the conveyance was not a completely built up premises and had only been an elementary construction and the purchase had been only of elementary construction along with the land and, as such, valuation pursuant to the prevailing rules had been made and requisite stamp duty accordingly has been deposited. It is three years thereafter a notice came to be issued in January, 2014, intimating that on scrutiny, the market value of the property had been more than the valuation shown in deed of conveyance and to be precise, Rs. 25,72,62,554/- and, as such, additional stamp duty of Rs. 51,82,560/- had been demanded with a further notice that if any objection to the same is there, same be lodged within 30 days. In response to the same, it appears that the petitioner had submitted that the property had been properly valued and the notice is scanty. It does not contain particulars for additional demand and, as such, had requested to provide more details in respect of the valuation stated. It is the contention on behalf of the petitioner that there had been no response to said communication. Subsequently, there had been further notice on 20th March, 2014 with similar contents as of earlier notice, once again directing to lodge objection, if any, within 30 days. This second notice as well as been without providing any particulars of the valuation shown in the same.

04. Thereafter on 06th June, 2014, final order came to be

passed referring to that pursuant to the remarks of the Auditor General, Nagpur, in respect of the deed of conveyance, the petitioner was directed to deposit a sum of Rs. 51,82,560/-. It is claimed by the petitioner, before said order there had been absolutely no communication about reasons for the valuation as shown in the order. According to the learned counsel, the procedure adopted has been in contravention of the provisions of section 32A(4) of the Maharashtra Stamp Duty Act, 1958, read with provisions of the Bombay Stamp (Determination of True Market Value of Property) Rules, 1995, which contemplate an opportunity of hearing to the parties concerned and also to produce documents concerned.

05. Learned counsel for the petitioner goes on to submit that the appeal therefrom at the instance of the petitioner, has been turned down under order dated 02-03-2015 by the Deputy Inspector General of Registration & Deputy Controller of Stamps, without applying mind to the objections and contentions on behalf of the petitioner and the decision depicts that beyond recording submissions, the order does not disclose that the authority concerned has functioned as an appellate authority. The order is sans reflection on submissions on behalf of the petitioner and as such it appears not depicting adherence to noble principles of natural justice. The petitioner in the whole scenario is being unheard.

06. On the other hand, Mr. S.P. Tiwari, learned assistant government pleader appearing for respondents, submits that the petitioner had been issued notices as required under the procedural rules. However, in response save and except one, there is no communication from the petitioner. A formal objection had been taken and as per request for documents, those have been duly served on the petitioner. It is submitted that procedure was followed in accordance with rules. The Auditor General's office had communicated the remark and had valued the transaction and accordingly had directed to recover the amount. He submits that the authority of first instance as well as the appellate authority have taken into account the provisions of the Maharashtra Stamp Act, 1958 and rules thereunder and by applying proper rules, have decided the matter. He submits that the appellate authority has quite in detail recorded submissions on behalf of the petitioner and on behalf of the respondents and had categorized conveyed property in the class of commercial complex and had arrived at a valuation in accordance with the rules. In the circumstances, to quite large extent rules as well as principles of natural justice had been followed, due notices were issued and the orders came to be passed.

07. Having heard learned counsel for the petitioner and learned assistant government pleader for respondents and on perusal of the orders passed, particularly the one dated 06-06-2014,

it is for the first time, the petitioner had been given intimation about the Auditor General's remark and objections and the information sought under a communication at the instance of the petitioner had been furnished. Till such time, it appears that the petitioner had no idea as to the basis on which notices were being issued. While order of the appellate authority records various contentions on behalf of the petitioner and submissions on behalf of the revenue, the appellate order falls short of reflecting upon application of mind to submissions, contentions and objections advanced on either side and it only refers to that according to submissions by the Collector of stamps, Jalgaon, the valuation of transaction was worth Rs. 27,60,77,970/- and accordingly a sum of Rs. 63,11,580/- would be due and not Rs. 51,82,680/- and directing further to act accordingly.

08. Aforesaid decisions of the authorities, which fall short of giving opportunity to the petitioner as would be due under the relevant provisions, particularly section 32A of the Maharashtra Stamp Act, in terms of the same, hearing is contemplated and appears to be due to the petitioner.

09. In the circumstances, the impugned orders stand set aside. The writ petition is allowed in terms of prayer clause "B". The matter is relegated to the Collector of Stamps, Jalgaon, for re-consideration afresh the proceedings initiated pursuant to the two

notices referred to herein above by giving opportunity to the petitioner.

10. Rule made absolute in the above terms. There shall be no order as to costs.

(Sunil P. Deshmukh)
JUDGE

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