THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.6552 OF 2005

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for respondents.

A sale deed was executed in favour of the petitioner in respect of an extent of Acs.2.00 of land situated in survey No.41 of Gopalpur village valuing the land at Rs.9,000/- per acre. After registration of the sale deed, a show cause notice was issued on 26.06.1999 by the District Registrar stating that during the course of checking all the registers in the Office of the Sub Registrar, Tandur, it was detected that in respect of the said sale deed, a stamp duty of Rs.2,000/- + Rs.201/- was paid, but it requires a stamp duty of Rs.33,000/- + Rs.1,750/- under Article 47-A of the Schedule I-A of the Indian Stamp Act, 1899. It was stated that the market value works out to Rs.3,00,000/- and the petitioner was asked to appear on 12.07.1999. Accordingly, the petitioner submitted his explanation on 09.07.1999 and appeared before the District Registrar. The District Registrar by his order, dated 22.11.1999 determined the deficit stamp duty payable as Rs.32,570/- and asked the petitioner to pay the said amount within thirty days. Challenging the said order, the petitioner filed C.M.A.No.3 of 2000 before the Principal Senior Civil Judge, Ranga Reddy District, at L.B.Nagar and the said appeal was dismissed. The said order was challenged in W.P.No.452 of 2003 before this Court, wherein it was pointed out by the learned counsel for the petitioner himself that the Principal Senior Civil Judge, Ranga Reddy District has no jurisdiction to entertain the appeal under Section 41-A of the Indian Stamp Act and took liberty to file an appeal before the first respondent and this Court disposed of the writ petition at the stage of admission itself by order, dated 20.03.2003. After filing of an appeal before the first respondent, the first respondent upheld the order of the District Registrar, Ranga Reddy, by his order, dated 04.01.2005. Challenging the said order, the present writ petition is filed.

The learned counsel for the petitioner submitted that at the time of issuing the show cause notice, no reason was shown for collection of deficit stamp duty and for the first time, the order of the first respondent discloses that there was a mining activity in the land and the land was undervalued at the time of registration of the document. The learned Government Pleader, on the other hand, submitted that the petitioner misstated the facts at the time of registering the document and suppressed the mining activity in order to get benefit of lesser stamp duty.

A counter affidavit is filed in the instant case stating that the second respondent while discharging his functions as Collector, under Section 41-A of the Indian Stamp Act, wrote a letter to the A.P.Mines and Geology Department to confirm whether any mines and minerals were existing in the schedule property to protect the Government revenue. The petitioner suppressed the said fact. The petitioner in a sworn affidavit in O.A.No.91 of 1997 stated that the said land is meant for the purpose of mining and prayed for interim injunction restraining the respondents therein from interfering in the suit land. In the clauses incorporated in the sale deed, it was stated that there are no mines or quarries or other valuable stones in the land. When the undervaluation petitions were received from the public, the first respondent instructed the valuation officer to enquire the facts. It revealed that the schedule property is having deposits of “Fullers Earth" and a mining lease was executed by the A.P.Mines and Geology Department, but the said fact was not mentioned in the document and that the petitioner tried to default the Government.

The first respondent, after hearing the parties, passed the following order.

> The matter has been examined in detail. The Vigilance Officer, who conducted spot inspection of the land, found mining activity in the said land. It is clearly evident from the lease deeds executed by the Assistant Director of Mines and Geology, Hyderabad, on 08.01.1992 and 16.01.1997 that there was mining activity in the said land. A perusal of the sale deed under reference reveals that the fact of mining activity in the said land was not mentioned in the document to evade payment of higher stamp duty. The appellant did not produce any cogent evidence in support of his contention that the land would cost only Rs.9,000/- per acre. Section 26 of the I.S.Act exclusively deals with mining leases where the value of the minerals extracted constitutes the major parameter for assessment of stamp duty as part of Royalty.
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> The undersigned therefore sees no reason to interfere with the order of the District Registrar, Ranga Reddy passed in his proceedings mentioned above. Accordingly, the appeal is dismissed as it is devoid of merits.
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> The appellant shall pay the amount levied by the District Registrar, in the impugned order failing which the District Registrar shall take action for recovery of the amount as per Rules.

This Court carefully perused the grounds of appeal raised by the petitioner before the first respondent and in the first ground itself, the petitioner disputed the existence of mines in the land and it clearly shows that the petitioner was aware of the ground on which the deficit stamp duty was sought to be collected. In view of this, though the reason was not mentioned in the show cause notice issued by the second respondent, which he ought to have done, in view of the knowledge of the petitioner and raising a ground in the appeal before the first respondent, this Court is not inclined to set aside the orders of the respondents 1 and 2 on technical plea raised by the petitioner. The petitioner was given sufficient opportunity with regard to proving the nature of the land and when the second respondent came to know that the land was being utilized for mining activity, he inspected the records of the Sub Registrar and took up the proceedings. Such action by the second respondent was confirmed by the first respondent, which cannot be found fault.

The writ petition is accordingly dismissed. Miscellaneous petitions, if any pending, in this writ petition, shall stand closed.

A.RAMALINGESWARA RAO, **J**

15.06.2017
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