IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* * * *

WRIT PETITION No.13867 of 2007

Between:

M/s.Super Gold Constructions Pvt Ltd.,
Rep.by its Managing Partner A.Hari Kishan Rao,
Having its Reg Office at
3-2-848/9-11, Kachiguda, Hyderabad.

....Petitioner

and

Sub-Registrar,
S.R.Nagar, Hyderabad,
Andhra Pradesh.

....Respondents

JUDGMENT PRONOUNCED ON : 12.07.2017

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : Yes

2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : Yes

3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? : Yes

*** THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

+ WRIT PETITION No.13867 of 2007

% 12.07.2017

M/s.Super Gold Constructions Pvt Ltd.,
Rep.by its Managing Partner A.Hari Kishan Rao,
Having its Reg Office at
3-2-848/9-11, Kachiguda, Hyderabad.

…Petitioner

vs.

$ Sub-Registrar,
S.R.Nagar, Hyderabad,
Andhra Pradesh.

… Respondent

!Counsel for the Petitioner : Sri R.Vinod Reddy

^Counsel for the Respondent : GP for Revenue

<Gist :

>Head Note :

? Cases referred

1. 1998 (4) ALD 458
2. 2006 (3) ALD 232
3. (2009) 7 SCC 438
4. AIR 1995 AP 233
5. 1989 (1) ALT 546

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.13867 of 2007

ORDER:

Heard the learned Counsel for the petitioner and the learned Government Pleader for the respondent.

The petitioner firm participated in an open auction conducted by this Court for the property bearing H.No.6-3-252 in an extent of 6957 square yards in Survey Nos.106 and 107 of Erramanzil, Hyderabad, which is the subject matter of Civil Suit No.9/1 of 1951 pending before this Court. The petitioner firm became the highest bidder and offered the rate of Rs.15,200/- per square yard. After declaring the petitioner as the successful bidder, the total sale consideration of Rs.10,57,46,400/- was deposited in this Court. The petitioner filed Application No.341 of 2005 seeking confirmation of sale, and this Court confirmed the sale by order dated 22.06.2005 and directed the Receiver-cum-Commissioner in C.S.No.9/1 of 1951 to execute necessary sale deed in favour of the petitioner. However, since some claim petitions filed by third parties were pending, the sale deed could not be executed. The third party claim petitions were ultimately dismissed on 23.03.2007 and the Receiver-cum-Commissioner executed the sale deed on 30.04.2007 and put the petitioner and its nominees in possession of the property. The petitioner paid a sum of Rs.74,02,255/- towards stamp duty and Rs.26,43,665/- towards registration fee totaling to an amount of Rs.1,00,45,920/-, on the total sale consideration of

Rs.10,57,46,400/-. The respondent kept the document pending on the ground that, as per the basic value register, the market value of the property works out to Rs.13,91,63,000/-. Accordingly, he directed payment of stamp duty of Rs.1,32,20,485/- and registration fee of Rs.34,79,075/-. Thus, he demanded payment of deficit stamp duty of Rs.23,39,155/- and registration fee of Rs.8,35,410/-. He issued a demand notice for the said amount on 27.06.2007. Challenging the same, the present Writ Petition is filed.

This Court, by order dated 02.07.2007 directed the respondent to process the document presented by the petitioner on furnishing the bank guarantee for the differential amount, subject to the result of the Writ Petition.

Even after ten years, no counter affidavit is filed by the respondent.

Learned Counsel for the petitioner submitted that the petitioner paid the requisite stamp duty as per subsection (6) of Section 47-A of the Indian Stamp Act, 1899, and the demand of the respondent for payment of deficit stamp duty on the basis of the basic value register is not correct and consequently, the impugned proceedings has to be set aside. He relied on **M.Venkata Ramana v. Collector and District Registrar, Hyderabad District**[1], **Shraddha Goel v. Collector (Market**

---

[1] 1998 (4) ALD 458

Valuation), Sangareddy[2] and **V.N.Devadoss v. Chief Revenue Control Officer – cum – Inspector**[3]**.**

Learned Government Pleader, on the other hand, submitted that the market value of the property should be taken into consideration for the purpose of stamp duty and registration and not the value mentioned in the sale deed.

The facts in **M.Venkata Ramana**'s case (supra) are that the petitioner, prior to his retirement from Government service, applied for allotment of a resident plot of land for construction of a house. The Government issued orders directing the Andhra Pradesh Housing Board to sell him a plot measuring 233.33 square yards at Santoshnagar Colony, Hyderabad, at the rate of Rs.600/- per square yard. He challenged the fixation of price in a Writ Petition, which was disposed of on 10.06.1991. This Court opined that the price fixed at Rs.600/- per square yard was arbitrary and directed the respondents to re-fix the market value in the light of basic value fixed by the Department of Registration for similar lands in the locality. The said order was modified by a further order by directing the respondent to fix the price prevailing as on 19.02.1987. Accordingly, the Housing Board re-fixed the market value of the land at Rs.400/- per square yard. The same was also challenged by the petitioner in another Writ Petition, and in the meantime, the Government issued a notice on 03.08.1993 threatening cancellation of

[2] 2006 (3) ALD 232
[3] (2009) 7 SCC 438

allotment in favour of the petitioner. He challenged the notice of cancellation in yet another Writ Petition. Both the Writ Petitions were disposed of by a common order dated 06.02.1997 wherein the notice of cancellation was set aside and the petitioner was asked to pay the cost of plot @ Rs.400/- per square yard as fixed by the Housing Board, pursuant to the order of the High Court. The petitioner accordingly paid the amount, and when the document was presented for registration, the Sub Registrar referred the document to the Collector and District Registrar, Hyderabad, for determination of market value. The Collector issued a notice under Section 47-A of the Indian Stamp Act and the petitioner submitted his explanation stating that the price of the land was fixed by this Court and, accordingly, it was not open to any authority to revise the value of the land. However, the Collector fixed the value of the land at Rs.1,440/- per square yard and demanded payment of stamp duty accordingly. In the light of the above facts, this Court considered the effect of Section 47-A of the Indian Stamp Act. A learned single Judge of this Court, by relying on **Vidya Nagar Housing Co-operative Society Ltd. v. State of A.P**[4] following the ratio laid down therein, held that before referring the matter to the Collector for determination of market value, the registering authority must have reason to believe that the consideration amount reflected in the instrument was not truly set forth in the instrument. The learned single Judge also relied on **K.Sivaramaiah v. Special Deputy Collector, Urban,**

---

[4] AIR 1995 AP 233

Cuddapah[5]**,** wherein it was held that the object underlying Section 47-A of the Indian Stamp Act was to neutralize the effect of undervaluation of the immovable property conveyed under registered instruments. Since the rate earlier fixed by the Housing Board was approved by this Court, it was held that the order of the Collector was erroneous and, accordingly, the Writ Petition was allowed.

In **Shraddha Goel**'s case (supra) the property sold in public auction by Andhra Pradesh State Finance Corporation was involved. The learned Counsel appearing for the petitioner in the said case relied on a Division Bench judgment of this Court in **The Sub-Registrar of Assurances, Asifabad, Adilabad v. M/s.Sri Bharatia Pulverisers Private Limited, Kumuguda, Asifabad Mandal, Adilabad District**, decided in W.A.No.355 of 1998, dated 11.03.1998, wherein it was held that in public auction sales conducted by the State agencies malfeasance cannot be attributed and so authorities under the Indian Stamp Act cannot, by invoking Section 47-A of the said Act, make an enquiry in respect of the property sold in public auction by the State agencies. This Court examined Article 20 of Schedule I-A and Section 27 of the Indian Stamp Act and following the view taken in **M/s.Sri Bharatia Pulverisers Private Limited**'s case (supra), allowed the Writ Petition directing the respondents to drop further proceedings under Section 47-A of the Indian Stamp Act.

[5] 1989 (1) ALT 546

In **V.N.Devadoss**'s case (supra) the Supreme Court considered similar provisions occurring in the Indian Stamp Act, 1899, as amended by the Tamil Nadu Amendment Act, 1967. In the said case, the property sold by the Asset Sales Committee (ASC) formed by the Board for Industrial and Financial Reconstruction (BIFR) and Appellate Authority for industrial and Financial Reconstruction (AIFR) was involved. The property belonging to a company, which became sick industry and was declared so under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985, was put to auction. When the sale deed was presented, the Sub Registrar referred the matter to the District Revenue Officer, who initiated proceedings under Section 47-A of the Indian Stamp Act resulting in issuance of notice. He valued the property as per market value other than the auction value. When an appeal was preferred, the appeal was also dismissed. The Division Bench of the High Court upheld the view taken by the authority, and when the matter was taken to the Supreme Court, the Supreme Court, after examining Section 47-A of the Indian Stamp Act held that Section 47-A of the Indian Stamp Act has no application because there is no scope for entertaining a doubt that there was any undervaluation, and accordingly, set aside the order of the High Court and the registering authorities were directed to register the documents at the price disclosed in the document of conveyance.

Thus, it is clear from the above decisions of this Court and that of the Supreme Court that when there is no scope for entertaining a doubt with regard to the value mentioned in the conveyance deed, Section 47-A of the Indian Stamp Act cannot be invoked by the registering authorities.

In the instant case also, the property involved in the transaction was purchased by the petitioner in an auction conducted by this Court. In such circumstances, there cannot be any doubt with regard to the consideration. The registering authorities cannot independently fix the market value. Such power can be exercised only when there is a doubt as to the market value.

In view of the above, the demand notice, dated 27.06.2007, is set aside, the Writ Petition is allowed and the respondent is directed to return the bank guarantee to the petitioner. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

12.07.2017
vs