HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.36504 of 2016

ORDER:

1) The present Writ Petition came to be filed seeking issuance of writ of mandamus declaring the minutes of the 4th respondent dated 28.07.2015 fixing the market value of the petitioner's lands in Sy.Nos.94, 95 and 97 of Pedatadiwada village, Denkada Mandal, Vizianagaram District and also the proceedings of the 6th respondent dated 18.07.2016 directing the petitioner to pay the deficit stamp duty, as illegal and improper.

2) The facts, which lead to filing of the Writ Petition, are as under:-

3) The petitioner herein claims to have purchased agricultural dry land admeasuring Ac.2.39 ½ cents in Sy.Nos.94-1B, 95-1B and 97-3B and Ac.2.90 ½ cents in Sy.No.94-1A, 95-1A, 97-1A, 97-1B, 97-2A, 97-2B, 97-3A of Pedatadiwada Gram Panchayat, Denkada Mandal, Vizianagaram District from his vendors Satya Venkata Reddy and another. These documents were admitted as P871/2016 and P872/2016 for obtaining online approval from the Joint Sub-Registrar. While matter stood thus the 6th respondent i.e., Joint Sub Registrar, Stamps and Registration, Vizianagaram, issued proceedings dated 18.07.2016 stating that the documents are kept pending on the

ground that the market value of the land in Sy.Nos.94, 95 and 97 is based on square yards and accordingly directed the petitioner to pay deficit stamp duty of Rs.12,38,710/- and Rs.1,90,570/- for the above two mentioned documents. Pursuant thereto, the petitioner applied under Right to Information Act, seeking copies of market value proceedings issued by the competent authority. Accordingly, the petitioner was furnished with the necessary proceedings dated 28.07.2015. As per the said proceedings, the classification of the said survey number was shown as house-sites abutting National Highway and State Highway and the value has been fixed at Rs.1,500/- per sq. yard. Questioning the minutes of the meeting of the committee for the Revision of Market value of properties in urban areas dated 28.07.2015, the present Writ Petition is filed.

4) Learned counsel for the petitioner mainly submits that the action of the authorities in fixing the market value at Rs.1,500/- per sq. yard and classifying the land as house-sites is illegal and contrary to the provision of the Act. It is the case of the petitioner that as per Rule 4(1) of the A.P. Revision of Market Value Guidelines Rules 1998, the Central Valuation of Advisory Committee has to consult the organizations before preparation of guidelines for revision of rates. It is further urged that while converting the agricultural land into non-agricultural land and changing the classification, the Authorities have to follow the procedure contemplated under the A.P.

Agricultural Land (Conversion for the Non-agricultural Purposes) Act, 2006. It is urged that, in the instant case, no such procedure has been followed and that a notification came to be issued by the Committee after conducting a closed door meeting fixing the market value in terms of square yards and also classifying the land as house-sites. Learned counsel for the petitioner further pleads that the procedure contemplated under Rules 5 and 6 of the A.P. Stamp (Prevention of undervaluation of instruments) Rules, 1975 have to be strictly followed before revising the market value. Having regard to the above, it is urged that the action of the authorities in demanding the petitioner to pay deficit stamp duty for release of the documents is illegal and improper.

5) The 6th respondent herein, who has been authorized to file counter on behalf of the other respondents also filed his counter denying the averments made in the affidavit filed in support of the Writ Petition. It is stated in the counter that the Government of Andhra Pradesh was pleased to introduce market value scheme and issued Rules vide G.O.Ms.No.1031, Revenue (U-2), 31st July, 1975, pursuant to which, the parties have to pay the stamp duty on any instrument of conveyance, exchange, gift, partition, settlement, release, agreement etc., on the value of consideration or market value as per Market Value Guidelines Register, whichever is higher. Subsequently, in the year 1988 revision of Market Value was done by

G.O.Ms.No.301 Rev. (Registration-I) Department, dated 04.05.1998. The averments in the counter further state that as per Government Memo dated 29.01.2013 the Commissioner and Inspector General of Registration and Stamps, A.P., Hyderabad, issued instructions vide Memo No.MV/138/2012, dated 02.02.2013 to revise the market values, both in Rural and Urban areas, with effect from 01.04.2013 and it was decided that after approval by the respective committees, the same shall be displayed on the notice board of the respective Sub-Registrars and Mandal Revenue Office, apart from posting it on the departmental website inviting objections. It was found that lands which are subject matter of the present Writ Petition were divided into flats and registrations were being done in terms of sq. yards from the year 1986 onwards. It is further stated that basing on the instructions received the market values were revised, displayed in the office of Sub-Registrar, the Mandal Revenue Office and also posted in the departmental website. It is further stated in the counter that even in the year 2014 and 2015, the revised proposals were valued and displayed in the office, but no objections have been received from any quarters. It is stated that even for the present year revised rates were displayed at appropriate places referred to above, but no objections are received from any quarters. Since no complaints are received, it is urged that the order of the authority warrants no interference. However, in the last paragraph of the counter it is stated that if any representation is made by any parties aggrieved by the rates shown in the market value guidelines, the issue shall be referred to the Committee specified in Sub-Rule (2) and such committee shall send proposals to the Commissioner and Inspector General for rectifying the anomaly by upward/downward revision after duly following the procedure prescribed under the Rule.

6) No reply came to be filed denying the averments made in the counter filed to the main writ petition.

7) Heard Sri Venkateswara Rao Gudapati, learned counsel for the petitioner and learned Government Pleader for Registration and Stamps Department.

8) In order to appreciate the rival contentions advanced, it would be useful to refer to certain provisions of the Act.

9) Section 47-A of the Indian Stamp Act states that where the Registering Officer appointed under the Registration Act, while registering any instrument has reason to believe that the market value of the immovable property, which is subject matter of such instrument has not been truly set-forth in the instrument, or that the value arrived at by him as per the guidelines prepared or caused to be prepared by the Government from time to time has not been adopted by the parties, he may keep such instrument pending and

refer the matter to Collector for determination of the market value of the property and the proper duty payable thereon. Provided that no reference shall be made by the Registering Officer unless an amount equal to 50% of the deficit duty arrived at by him is deposited by the party concerned.

10) Thereafter the Collector shall, after giving parties an opportunity of making their representation and after holding an enquiry in such manner as may be prescribed by rules made under the Act, determine the market value of the property. The section prescribes an appeal against the order of the Collector and so on.

11) Rule 4 of the A.P. Revision of Market Value Guidelines, 1998 refers to composition of Central Valuation Advisory Committee to evolve general or specific guidelines from time to time for revision of market value for the use of committees constituted under Rule 4(2). Rule 4(2) deals with the authorities competent to prepare market value guidelines in urban areas and also in rural areas.

12) Rule 6 states that while working out values of the land and buildings, the committees shall take into account the established principles of valuation mentioned in Rule 5 of the Andhra Pradesh Stamp (Prevention of Undervaluation of Instruments) Rules 1975 and any other factors that they may deem necessary.

13) As per Rule 8, the market value guidelines prepared under Rule 6 and 7 shall be made available to each Sub-Registrar by the Convenors of the committees, who in turn shall supply the same to Tahasildar, Mandal Development Officer etc.

14) Rule 13 deals with the authority competent for rectification of anomalies, which reads as under:-

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2………….

3. Any representation received from the effected parties against the revision of Market Value Guidelines in respect of any specified area or locality, shall be referred by the Officers of the Department to the Convenors of the Committee specified under sub-rule (2), who shall place the same before the said Committee alongwith such other material as may be relevant.

4. The Committee thereupon shall examine the representation, make such other enquiry or inspections as may be required and arrive at appropriate market value and send a proposal to the Commissioner and Inspector General for approval.

5. The rectification of anomalies shall be implemented on a date to be fixed by the Commissioner and Inspector General of Registration and Stamps.

15) Further, Rules 4 and 5 of the A.P. Stamp (Prevention of Undervaluation of Instrument) Rules 1975 deal with the procedure to be followed on receipt of a reference under sub section 1 of Section 47-A and also the principles for determination of the market value on consideration.

16) The undisputed facts are that the petitioner having purchased the agricultural land submitted the documents for registration, which

were admitted as P871/2016, P872/2016, for applying online approval to the Sub-Registrar as and when required. Thereafter the Joint Sub-Registrar informed through email that the deficient stamp duty has to be paid and that the petitioner has to pay rate @ Rs.1,500/- per sq. yard. A reading of the impugned proceedings issued by Joint Sub-Registrar, Vizianagaram show that when the document has been presented for registration, the Sub-Registrar, Bhogapuram was asked to furnish the market value of the land to which he is stated that the market value is Rs.1500 sq. yard. Hence, the petitioner was asked to pay deficient of stamp duty basing on the market value at Rs.1,500/- per sq. yard. The impugned proceedings, which came to be issued by the Joint Sub-Registrar, Vizianagaram was based on the valuation given by the Sub-Registrar, Bhogapuram, who is the 7th respondent herein. But one fact which is also admitted in the counter, to which there is no reply is that, under Section 13 of the A.P. Revision of Market Value Guidelines, 1998 if any representation is received from parties, aggrieved by the rates shown in the Market value arrived at, the aggrieved person can submit a representation, which shall be referred to committee, who will in turn shall send the proposal to the Commissioner and rectify the anomalies.

17) Insofar as urban area is concerned, the District Collector is the Chairman, while in Rural areas, the Revenue Divisional Officer is the Chairman of the Committee. On a representation made, the

Committee shall examine the representation made, make such other enquiry as required, arrive at an appropriate market value and send a proposal to the Commissioner or Inspector General for approval. The rectification of anomalies shall be implemented on a date to be fixed by the Commissioner and Inspector General of Registration and Stamps as per Clause 5 of Rule 13.

18) As seen from the records, various disputed questions of facts are raised. Firstly it has been urged by the learned counsel for the petitioner that the land which is sought to be registered is still an agricultural land with no house flats nearby, which fact is seriously disputed by the counsel for the respondent stating that since 1986 the land in the said area is being registered in terms of sq. yards and number of flats are in existence in that area.

19) Since the issue involves factual aspects, it may not be proper for the Court to adjudicate the issue moreso when the statute provides an alternative remedy of appeal to the petitioner. Though the authorities claim to have displayed the revised market value in the office of Sub-Registrar, office of Mandal Development Officer and also in the website, but still the respondents admitted in the counter that the petitioner can make a representation before the Authorities in terms of Rule 13(4) which shall be dealt with in accordance with law, if such representation is made.

20) In the instant case the dispute is not with regard to violation of principles of any natural justice, but on the ground that the fixation of market value is contrary to the provisions of law. Since the petitioner is complaining about the value being fixed by the Authority in terms of sq. yard and as the issue involved the disputed questions of fact, the petitioner shall make a representation questioning the rate shown in the Market Value Guidelines. Further, the issue as to whether there was conversion from agricultural to non-agricultural purpose and also as to whether the said process has any effect in fixing the market value if the land is converted into house-flats can also be agitated before the competent authority while making the representation, in which event, the same shall be considered in accordance with Rule 13(4) of the A.P. Revision of Market value Guidelines Rules, 1998 within a period of 3 weeks from the date of the receipt of such representation and pass orders after hearing the petitioner.

21) Accordingly, the Writ Petition is disposed of giving liberty to the petitioner to make a fresh representation, though no objections were raised earlier with regard to fixation of the market value for the previous years, in which event the same shall be considered in accordance with Rule 13(4) of the A.P. Revision of Market Value Guidelines Rules, within a period of 3 to 4 weeks from the date of

receipt of such representation. No costs. Miscellaneous petitions, pending if any, in this Writ Petition, shall stand closed.

C. PRAVEEN KUMAR, J

Date: 04.01.2017
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