HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.5841 OF 2013

ORDER:

In this writ petition, the petitioner seeks writ of mandamus declaring the action of the 2nd respondent in issuing proceedings in File No.G1/1125/2005, dated 30.11.2005 in case No.01/2005 and a consequential order passed in appeal i.e., A.S.No.01/2012 dated 22.11.2012 by the Senior Civil Judge, Siddipet, Medak District, confirming the order of the 2nd respondent without taking into consideration the market value fixed by the Government as per G.O.Ms.No.301, Revenue (Registration), dated 04.05.1998 as illegal and consequently, set aside the orders impugned and direct the respondents 2 and 3 to register the document which was kept pending as document No.P/55/05, dated 15.06.2005 pertaining to agricultural land in an extent of Acres 03.28 Guntas in Survey No.257/2 of Venkatapuram Village, Siddipet Mandal, Medak District.

2. Petitioner's case, in brief, is that:

(a) Petitioner purchased the land in an extent of Acres 3.28 Guntas in Survey No.257/2, situated at Venkatapuram Village, Siddipet Revenue Mandal, Medak District and presented the registered sale deed before Sub-Registrar, SRO, Siddipet on 15.06.2005 for registration showing the market value of the subject land at the rate of Rs.81,500/-. Along with the sale deed, he also produced the market value certificate dated 08.04.2011 issued by the Sub-Registrar showing the Survey No.257/2 (dry) in an extent of Acres 3.28 Guntas was valued at the rate of Rs.40,000/- per acre and total value at the rate of Rs.1,48,000/-. However, the 3rd respondent raised objection with regard to the market value shown in the sale deed and kept the document pending registration as P/55/2005 and referred the said document to the 2nd respondent – the District Registrar/Collector under Section 47-A of Indian Stamp Act (for short, 'the Act') for determination of market value of the property.

(b) The petitioner made representation dated 06.10.2005 to the 2nd respondent stating that the property was purchased for Rs.26,000/- and it was being used as agricultural land and its market value does not exceed to the value of adjacent lands i.e., Survey Nos.256 and 258 and as such, the stamp duty was paid on the basis of adjacent lands market value. It was also contended by the petitioner that in the certificate issued by the Sub-Registrar, the value of the land was shown as Rs.40,000/- per acre and therefore, the order of the Sub-Registrar keeping the sale deed pending registration was against law. However, without considering the submission of the petitioner, the 2nd respondent passed an order dated 30.11.2005 in case No.01/2005 holding that the local enquiry revealed that adjacent to the sale deed land, Gramkantam is situated and it is having potentiality for development into house sites and therefore, the subject land is ranging between Rs.1,45,000/- to Rs.1,50,000/- per acre as on the date of execution of the instrument and directed the Sub-Registrar to collect the deficit stamp duty.

(c) Aggrieved by the said order, the petitioner preferred appeal A.S.No.01/2012 before learned Senior Civil Judge, Siddipet and the said court in its order dated 22.11.2012 confirmed the order of the District Registrar and dismissed the appeal.

Hence, the writ petition.

3. Heard learned counsel for petitioner and learned Government Pleader for Revenue, appearing for the respondents.

4. The main grievance of the learned counsel for the petitioner is that the subject land, which is situated in Survey No.257/2 in Venkatapuram Village, Siddipet Revenue Mandal, Medak District, is basically an agricultural dry land and even as per the market value certificate issued on 08.04.2011, the value of Acres 3.28 Guntas of land in Survey No.257/2 was Rs.1,48,000/- i.e., at the rate of Rs.40,000/- per acre. This was the value prevailing with effect from 01.08.2010. Whereas, the sale deed was of the year 2005 and at that time, the market value was Rs.26,000/- per acre and

accordingly, the petitioner valued land and paid the stamp duty and the 3rd respondent ought to have accepted the same instead of keeping the document pending for registration and referring the matter for assessment of market value to the 2nd respondent. Learned counsel would further argue that the 2nd respondent, without reference to Rule 5 of A.P. (Prevention of Undervaluation of Instruments) Rules, 1975 (for short, 'the Rules, 1975') simply assessed the value of the subject land at the rate of Rs.1,50,000/- per acre on the premise that the Gramkantam of the Government is situated adjacent to the subject land and therefore, it has the potentiality of developing into house sites. Learned counsel would submit that as on the date of sale deed, the land stood as an agricultural dry land and it was not converted into house sites and therefore, the 2nd respondent ought not to have taken the potentiality of its being converted into house sites to assess its market value. He, thus, argued that the assessment made by the 2nd respondent is unjust and illegal. He further submitted that the learned Senior Civil Judge, Siddipet, without considering these aspects in a proper perspective dismissed the appeal. He, thus, prayed to allow the writ petition.

5. Per contra, learned Government Pleader for Revenue referring to his counter would submit that the subject land is situated adjacent to the Gramkantam and it had the high

potentiality of being converted into house sites and even by the date of sale deed, the Survey No.257/2 was recorded as 'agricultural land fit for house sites' and in that view, its market value as per basic register was fixed at the rate of Rs.1,86,500/- vide the order dated 12.09.2004, which came into force from 01.09.2004 and was in effect by 30.09.2005. As such, the market value assessed by the 2nd respondent at the rate of Rs.1,50,000/- per acre cannot be termed as unjust or illegal. He, thus, prayed to dismiss the writ petition.

6. I gave my anxious consideration to the facts and impugned orders. The sale deed dated 15.06.2005 shows that the petitioner has purchased Acres 3.28 Guntas of land covered by Survey No.257/2 in Venkatapuram Village, Siddipet Revenue Mandal, Medak District, from three vendors. The property was sold for Rs.81,500/- at the rate of Rs.26,000/- per acre and stamp duty was paid accordingly. The 3rd respondent kept the said document pending registration and referred for assessment of market value to 2nd respondent.

7. A perusal of the order dated 30.11.2005 passed by the 2nd respondent would show that the 2nd respondent on making a local enquiry of the subject land and the lands in the vicinity, found that the prevailing rate of the subject land was ranged between Rs.1,45,000/- to Rs.1,50,000/-. It is mentioned that the subject land is near to the Gramkantam

having large potential for development of house sites. On such observation, the 2nd respondent fixed the land value at Rs.1,50,000/- per acre exercising his power under Section 47-A of the Act. When the petitioner filed appeal before the Senior Civil Judge, Siddipet, the appellate authority opined that under Section 47-A of Indian Stamp Act, the market value has to be assessed on the basis of relevant consideration i.e., the value of agricultural land plus price ascribable to its building potentially. The potential value has to be decided with reference to the material on record. The market value has to be determined according to the factors including the situation of land, amenities available in and around and various other factors including close proximity of the residential area as well as any transfer made immediately before the transfer or after the transfer in the close proximity land bounded on all sides by fields, and potential for urban use etc. The appellate authority further observed that one of the important criteria for determining the market value is the rate prevailing in the locality as recorded by the competent authority in the area. For determining the value of the property, the question is the price the property would have fetched if sold in open market on the date of execution of the instrument. On these observations, the appellate court found that the order passed by the 2nd respondent i.e., District Registrar does not suffer any infirmity or illegality and accordingly, dismissed the appeal.

8. The subject land is Acres 3.28 Guntas of agricultural dry land and by the date of sale deed, the land though referred as agricultural land, as per the estimate of the 2nd respondent, it was having a house site potentiality became adjacent to the said land, there is a Government Gramkantam. Basing on such observation, the 2nd respondent has fixed the market value of the subject land at the rate of Rs.1,50,000/- per acre.

9. As already noted supra, the grievance of the petitioner is that the authorities have not properly considered the Rule 5 of the Rules, 1975. Rule 5 of A.P. (Prevention of Undervaluation of Instruments) Rules, 1975 reads thus:

> *"5. **Principles for the determination of the market value of consideration:-** The Collector shall, as far as possible, have also regard to the following points in determining the market value or consideration, namely:-*
> *(a) in the case of lands –*
> *(i) classification of the land as dry, manavari, wet and the like;*
> *(ii) classification under various Tarams and Bhagana in the settlement Register of Accounts;*
> *(iii) the rate of the revenue assessment for each classification; and*
> *(iv) Other factors which may be relevant to the valuation of the land in question;*
> *(v) points, if any, mentioned by the parties to the instrument of any other person requiring special consideration;*
> *(vi) value of adjacent land or lands in the vicinity;*
> *(vii) average yield from the land, its nearness to road and market, distance from village site, level of the*

land, transport facilities, facilities available for irrigation such as tank, wells and pumpsets; and

(viii) *the nature of crops raised on the land."*

10. As can be seen, as per Rule 5(a)(iv) as pointed out by the learned Government Pleader among other things, the assessing authority has to take into consideration the other factors which are relevant for the valuation of the land in question. In this case, though the respondents are not disputing that the land is still an agricultural land, their submission is that it has got a house site potentiality in view of the fact that in and around the subject land the Government Gramkantam is there and house sites are coming up. In this context, the learned Government Pleader brought to the notice of this Court the Market Value Guidelines Basic Register (Rural), Siddipet, dated 12.09.2004, a copy of which is filed along with his counter. In the said document, the lands covered by Survey No.257 and other lands of Venkatapuram Village are mentioned and their nature and market value are also mentioned. Survey No.257 is referred as agricultural land fit for house sites and unit head is mentioned as Rs.1,86,500/- per acre. This valuation was mentioned by the Government with effect from 01.09.2004 and up to 30.09.2005. Admittedly, the sale deed in question was dated 15.06.2005. As such, the valuation as shown in the aforesaid document would apply to the subject land. As per the said valuation, the market value of one acre

of the land covered by Survey No.257 is Rs.1,86,500/-. The prominent aspect is that though the lands in Survey No.257 are agricultural lands, they are denoted as fit for house sites. It is pertinent to note that the other lands covered by other survey numbers are only mentioned as dry lands. It is also pertinent to note that not only the land covered by survey No.257 but some other lands in some other survey numbers were also denoted as fit for house sites. For instance, the land covered by Survey Nos.260 to 266 and 270 are referred as the lands fit for house site and their market value was fixed accordingly at Rs.1,86,500/- per acre on par with the land in Survey No.257 with which we are concerned. So, the said document shows that way back on 01.09.2004 the Government considered that though the certain lands situated in Venkatapuram Village, were agricultural dry lands, however they had the potentiality of conversion into house sites and their valuation was fixed higher than the other lands. The subject land covered by Survey No.257 is one among them. Probably taking the same into consideration, the 2nd respondent in his order mentioned that the land covered by sale deed is having the potentiality for development and house sites and accordingly fixed its market value at the rate of Rs.1,50,000/- per acre. In that view of the matter, his assessment made under Section 47-A of the Act cannot be said to be perverse or illegal. Consequently, the order of the appellate authority confirming the order of the 2nd respondent also cannot be carped. Hence, I find no merits in the writ petition.

11. Accordingly, this writ petition is dismissed. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

22.11.2018
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