NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 3613 of 2011

State of Chhattisgarh through the Secretary Government of Chhattisgarh, Department of Commercial Tax (Registration), DKS Bhawan, Mantralaya, Raipur, Chhattigarh.

Represented through Shri L.S. Kindo, District Registrar-Cum-Collector of Stamps, Raigarh, District Raigarh, Chhattisgarh and OIC of the case.

---- Petitioner

Versus

1. Murlidhar Gupta, aged about (not known to the petitioner) S/o Late Shri Bhagirathi Gupta, R/o Sadar Bazar, Raigarh, Tahsil and District Raigarh, Chhattisgarh.
2. Krishna Kumar Gupta, aged about (not known to the petitioner) S/o Late Shri Bhagirathi Gupta, R/o Sadar Bazar, Raigarh, Tahsil and District Raigarh, Chhattisgarh.

---- Respondents

For Petitioner/ State	:	Mr. Adil Minhaj, G.A.
For the Respondents	:	Mr. S.N. Nande, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11-12-2019

1. This petition has been brought challenging the impugned order passed by the Board of Revenue on 17.9.2010 in Review Petition No.R.W./13/S.A./B-105/42/2010 in which the order dated 8.8.2003 passed in Appeal Case No. 11/B-105/2002-03 was reviewed and set aside.

2. It is submitted by the State counsel that the proceedings were initiated before the Collector of Stamps, Raigarh which was registered as 100/B-105/1996-97 regarding the adjudication of stamp duty on a sale deed in which the respondents are party. Order dated 29.5.1997 was passed directing the respondents to fulfill the amount of stamp duty as adjudicated. This order was challenged in the appeal filed by Sanjay

Kumar Gupta before the Commissioner, Bilaspur Division in Appeal Case No.77/B-105/99-2000 which was decided and dismissed on 14.2.2000 and respondent No.1 - Murlidhar Gupta and other interested persons filed an appeal before the Board of Revenue which was decided on 8.8.2003 in which the orders of the authorities below was upheld. It is further submitted that respondent No.1 filed a review petition under Section 51 of the Chhattisgarh Land Revenue Code which was registered as Review Petition No. R.W./13/S.A./B-105/42/2010. On the basis of the contents of the application filed, no ground for review is made out. However, the Board of Revenue has entertained the review petition and after passing of about 7 years, has reviewed its own order and has set aside the same which is totally arbitrary; against the provisions of law and erroneous, therefore, this order is not sustainable. Hence, it is prayed that the petition be allowed and the impugned order be set aside.

3. Learned counsel for the respondents submits that the Board of Revenue has not committed any error in allowing the review petition. Section 56(4) of Stamp Act, 1899 provides that the Chief Controlling Revenue Authority at any time for the purpose of satisfying itself may interfere with the order which touches upon the charge of duty on any instrument. Section 51 of the Chhattisgarh Land Revenue Code, 1959 further empowers the Board of Revenue to review its own order therefore, the order has been passed after considering the representation made by the respondents in a lawful manner which cannot be interfered with.

4. Heard counsel for both the parties and perused the documents.

5. In this case, the sale deed was executed on 30.3.1996 and as it was in-sufficiently stamped, the proceedings were initiated before the Collector of Stamps, Raigarh. The initial order that was passed by the Collector,

Raigarh adjudicating the necessity of making payment of additional stamp duty against the respondents was upheld by the Commissioner as well as by the Board of Revenue in the earlier orders passed by them. Board of Revenue can of-course review its own order under the provisions of Section 51 of the Chhattisgarh Land Revenue Code.

6. Section 51 of the Chhattisgarh Land Revenue Code is reproduced herein below:

> **“51. Review of Orders:-** (1) The Board and every Revenue Officer may, either on its/his own motion or on the application of any party interested review any order passed by itself/himself or by any of its /his predecessors in office and pass such order in reference thereto as it/he thinks fit;
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> (i) If the settlement commissioner, Collector or settlement officer thinks it necessary to review any order which he has not himself passed, he shall first obtain the sanction of the Board, and if an officer subordinate to a Collector or Settlement Officer proposes to review any order, whether passed by himself or by any predecessor; he shall first obtain the sanction in writing of the authority to whom he is immediately subordinate;
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> (i-a) No order shall be varied or reversed in revision unless notice has been served on the parties interested to appear and be heard in support of such order.
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> (ii) No order from which an appeal has been made, or which is the subject of any revision proceedings shall, so long as such appeal or proceedings are pending, be reviewed;
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> (iii) No order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings, and no application for the review of such order shall be entertained unless it is made within (sixty days) / (ninety days) from the passing of the order.”

7. Section 51 of the Chhattisgarh Land Revenue Code, 1959 provides only

for procedure therefore, the grounds on which an order earlier passed by an authority can be reviewed shall then be in accordance with the Order XLVII Rule 1 of the CPC. The grounds on which a review can be made is detailed in the Order XLVII Rule 1 of the CPC, that from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, secondly, on account of some mistake or error apparent on the fact of the record and thirdly, for any other sufficient reason, which is analogous to these rules, the order may be reviewed.

8. The grounds for review in this petition nowhere appeared to be mentioned as per the requirement of Order XLVII Rule 1 of the CPC. However, the Board has observed in the impugned order that the valuation of the sale deed shown was equivalent to the valuation prevailing in the open market and this observation was made the ground to allow the review petition.

9. The grounds on which the previous order was reviewed was available to the respondents at the time when the matter was adjudicated by the Collector of Stamps, Raigarh and the appeals were decided by the Commissioner as well as by the Board of Revenue, therefore, under no circumstance the ground mentioned in the impugned order is a new fact discovered later on, or it was not within the knowledge of the respondents at the time of previous adjudications, because the issue in the proceedings was only to this extent that the valuation of sale deed was proper and in accordance with the market price. The other grounds on which a review can be made are not mentioned in the impugned order. Therefore, the impugned order by which the earlier order of the Board itself has been reviewed and set aside is erroneous, not in

accordance with law, therefore, incorrect. Hence, the impugned order is not sustainable. Therefore, the petition is allowed and the impugned order is set aside.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi