HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3173 of 2009

M/s Geetanjali Construction (Colonizer, Developer and Builder) a partnership Firm registered under the Indian Partnership Act, 1956 through its partner Shri Sant Ram Sahu, son of Shri mutan Ram Sahu, aged 53 years, R/o Geetanjali House Nehru Nagar, Ameri Road, Bilaspur (C.G). **--- Petitioner**

Versus

1. Board f Revenue Chhattisgarh through its Chairman, Bilaspur.
2. State of Chhattisgarh through the Deputy Registrar (Stamp), Bilaspur.
3. Collector of Stamp, Bilaspur, Chhattisgarh.
4. Deputy Registrar, Stamps, Bilaspur
5. Mahesh Kumar S/o Shri Hiralal Ubhrani,, aged about 40 years, R/o Main Road Torwa, Bilaspur Chhattisgarh **--- Respondents**

Presence :

For the petitioner : Malay Kumar Shrivastava, Advocate

For the State : Mr. Sudeep Verma, Dy.G.A.

For respondent No.5 : Mr. Yash Mourya, Advocate

HON'BLE SHRI JUSTICE GOUTAM BHADURI

Order on Board

05.07.2019

1. The instant petition is filed against the order dated 31.01.2007 passed by the Board of Revenue, Bilaspur, Chhattisarh whereby the order passed by the Collector of Stamps on 29.08.2016 in Revenue Case No.231/B-105/2004-2005 u/s 47-A of the Indian Stamp Act, 1899 (henceforth called as as "The Act, 1899) has been affirmed.
2. Learned counsel for the petitioner would submit that a purchase was made by the petitioner in respect of certain land on 04.01.2003 vide

Annexure P-5. It is stated that as per the sale deed, the purchase was made for a sale consideration of Rs.76,000/- and the stamp of Rs.10,150/- was paid in total. It is stated that subsequently a *suo-motu* cognizance was taken by the Collector of Stamps, Bilaspur u/s 47-A of the Indian Stamp Act 1899 and the Collector came to a finding that the value of the property was Rs.5,57,000/- thereby the stamp of Rs.49,444/- was levied along-with additional registration charges of Rs.3540/-, thereby a total demand of Rs.42,834/- was made recoverable. Learned counsel submits that the Collector has wrongly arrived at such cost of the land and has not followed the procedure to determine the value of amount as per the Indian Stamp Act (M.P. Prevention of Undervaluation of Instruments) Rules 1975. He further submits that the said order was subject matter of challenge in appeal and the Board of Revenue too affirmed the order of the Revenue Collector, thereby the erroneous findings was arrived at.

3. On the other hand, learned counsel for the State-respondent vehemently opposed the arguments and submits that the Collector while arriving at the cost of price of the instrument has followed the procedure by adopting the best of the procedure to determine the cost. Thereafter, taking into all factors came to conclusion about price of land and ordered accordingly which do not require any interference. In view of the same, the order is well merited.

4. Perused the documents. The sale deed dated 04.01.2003 Annexure P-3 was executed for a consideration of Rs.76,000/- wherein the market value was shown to be Rs. 1,14,200/- whereon the Court fee and registration charges were paid. Subsequent to it, the order dated 29.08.2006 was passed which would show that *suo motu* action was taken by the Collector u/s 47-A of the Indian Stamp Act (which is inserted by M.P.8 of 1975 dated 15.05.1975) which provides the procedure to deal with the undervalued instruments. Section 47(1)

subsection (1) of the Act purports that minimum value has to be determined in accordance with any Rules framed under this Act. *"The Indian Stamp Act (M.P. Prevention of Undervaluation of Instruments) Rules 1975* have been framed in exercise of power conferred by Section 75 read with section 47-A of the Indian Stamp Act, 1899. In such rule, Rule 4 provides for the procedure on receipt of reference or on proposal to take action suo-motu u/s 47-A of the Act. Since in this case the petitioner was heard, the subsequent Rule i.e., primarily Rule 5 would be of relevance wherein factors are shown to determine the market value of the land. Rule 5(a) would be relevant which reads as under:

> 5. **Principles for determination of market value.-** The Collector shall as far as possible have also regard to the following points in arriving at the market value
>
> *(a) In the case of land -*
>
> (I) classification of the land as dry, or wet and the like;
>
> (II) classification under various categories in the settlement register;
>
> (III) the rate of revenue assessment for east classification
>
> (IV) other factors which influence the valuation of the land in question
>
> (V) Points, if any, mentioned by the parties to the instrument or any other person which require special consideration;
>
> (VI) Value of adjacent land or lands in the vicinity;
>
> (VII) average yield from the land nearness to road and market, distance from village site, level of land, transport facilities, facilities available for irrigation in any form;
>
> (VIII) the nature of crops raised on the land

5. In order to determine the market value of any land, 8 factors are to be considered on the basis of which, primarily the determination of value

has to be arrived at for all practical purposes. When the guidelines and parameters set out in the Rule 5(a) are compared with the order passed by the Collector on 29.08.2006, it do not satisfy the same and would show that those factors were not taken into consideration to determine the value of land the then existing. In order to determine a market value, the Collector was required to give a specific finding in respect of each factor which finds place in Rule 5(a) and separate satisfaction should have been recorded and conclusion thereof to be drawn after the market evaluation is finalized. There cannot be any omni-bus general presumption for consideration to assess the market value and come to conclusion in respect of the land.

6. In view of the aforesaid discussion, the order dated 31.01.2007 passed by the Board of Revenue whereby the order of the Collector dated 29.08.2006 was affirmed, is set aside. The case is remitted back to the Collector of Stamps to reconsider and decide the same in accordance with Rule 5 (a) of Rules, 1975. The Collector of Stamps shall give a definite finding on each factor and thereby draw a conclusion on the overall market value. If need be, the Collector of Stamp shall conduct an enquiry as aforesaid within the 4 corners of the Rules and shall thereafter pass a speaking order. The parties shall appear before the Collector of Stamp on 30th July, 2019

Sd/-
(Goutam Bhaduri)
Judge

Rao