$~40

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 1760/2018

GOPA CHANDA & ORS ..... Petitioners

Through: Mr Rajiv Nayar, Sr. Advocate with Mr Manu Nair, Mr Kuber Dewan, Mr Saurabh Seth and Mr Manik Sachdeva, Advocates.

versus

COLLECTOR OF STAMPS CUM SUB DIVISIONAL MAGISTRATE ..... Respondent

Through: Mr Ramesh Singh, Standing Counsel, GNCTD with Mr Chirayu Jain and Ms Nikita Goyal, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% 18.01.2019

1. The petitioners have filed the present petition, *inter alia*, praying as under:

> "(a) Issue a writ, order or direction in the nature of *certiorari* or any other appropriate writ, quashing the Impugned Order bearing No. 10(1164)/COS/SDM(Ch.Puri)/2017/1799 dated 02.08.2017 passed by the Collector of Stamps-cum-Sub-Divisional Magistrate-Chanakya Puri, New Delhi District, the Respondent herein;
>
> (b) Issue a writ, order or direction in the nature of *mandamus* or any other appropriate writ, directing the Respondent to adopt the sale consideration of Rs. 476,51,00,000/- (Rupees Four Hundred Seventy Six

> Crores Fifty One Lakhs Only) to be the valuation for the purposes of payment of Stamp Duty on the sale deed of Plot No. 13 (erstwhile Plot No.16A) situated in Block No. 1 at 13, Prithviraj Road, New Delhi executed on 03.08.2017, calculate the stamp duty thereon and consequently refund the excess stamp duty paid by Petitioner Nos. 1 to 3 on such sale deed, to Petitioner Nos. 1 to 3; ”

2. The petitioners, essentially, impugn an order dated 02.08.2017 passed by the Sub-Divisional Magistrate, Chanakya Puri, New Delhi adjudicating the stamp duty payable on the Sale Deed executed between Ms Gopa Chanda, Mr Robey Lal, Ms Deepa Mukherji and Ms Rita Datta in favour of Ms Anushka Singh, in respect of Plot No.13 (erstwhile Plot No.16A) situated in Block No.1 at 13, Prithviraj Road, New Delhi-110011 admeasuring 1.765 acres. The said property was sold by the petitioners and Mr Robey Lal for a consideration of ₹4,76,51,00,000/- only. The SDM found that the aforesaid rate was below the Circle rate as notified and has, accordingly, adjudicated the stamp duty as payable on a total value of ₹5,53,70,13,766/-.

3. As observed by this Court in the order dated 15.01.2019, the said order is not binding either on the petitioner or the Government of NCT of Delhi.

4. Mr Nayar, learned senior counsel states that the petitioners have paid the stamp duty on the value as assessed in the impugned order, albeit, under protest and seeks liberty to avail of an appropriate remedies in this regard.

5. As stated above, the impugned order itself is not binding on the petitioners and does not in any manner preclude the petitioners from pursuing their other remedies if available in law. The contention that

although, the impugned order has been passed under Section 31 of the Indian Stamp Act, 1899, it also finally decides the question of the stamp duty in terms of Section 47A of the said Act, is unmerited. The impugned order has been passed under Section 31 of the said Act and its import does not extend beyond the said provision.

6. The prayer that the respondents be directed to refund the stamp duty paid cannot be granted. There is no provision for refund of stamp duty voluntarily paid on an instrument. The petitioner was required to be agitate the same before the Registering Authority under the framework of Section 47A of the said Act.

7. The petition is disposed of with the aforesaid observations.

VIBHU BAKHRU, J

JANUARY 18, 2019
MK