ORDER SHEET
WPO/193/2020
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SUMERMAL SURANA & ANR.
-VS-
THE STATE OF W.B. & ORS.

BEFORE:
THE HON'BLE JUSTICE ARINDAM SINHA
DATE: NOVEMBER 19, 2020

Mr. S. Banerjee, Adv.; Mr. A. Basu, Adv.; Mr. D. Basu, Adv., for petitioners.
Mr. A. Banerjee, Sr. Adv. & Ld. Sr. Standing Counsel, for State.

The Court: Petitioners are before this Court seeking issuance of a writ of Certiorari, particularly in respect of demand letter dated 19th November, 2019, by which Additional Registrar of Assurance-III, Kolkata, has demanded deficit stamp duty and registration fees against registration of final decree dated 14th July, 2017, passed in EOS no.5 of 2014.

Mr. S. Banerjee, learned advocate appearing on behalf of petitioners submits, there was valuation made of the decree and stamp duty paid thereon. The demand for purported deficit stamp duty is bad and should be quashed. There should also be consequential direction for registering the decree at the value assessed for stamp duty already paid.

Mr. A. Banerjee, learned senior advocate, Senior Standing Counsel, appears on behalf of State and relies on section 23 in Registration Act, 1908 to submit, the document is being presented for registration at this time and, therefore, keeping aside the demand for deficit stamp duty, since stamp was assessed and paid, the assessment of registration fee should be 1% of current prevailing market rate of the property. Mr. S. Banerjee responds that once assessment has been made as on market value, there cannot be taken another value as market value for the purpose of registration.

Provision relied upon has a proviso regarding decree or order and where the same is appellable. The fact is, even if there were gaps or time over-run after the decree was passed and appeal preferred or the appeal dismissed and thereafter submission of the decree for valuation of stamp duty and registration, the assessment or adjudication regarding stamp duty to be paid, done by the authority, has caused waiver of any right it may have had to subsequently revalue relying on the provision (section 23). Page 23 in the writ petition is copy of a document bearing stamp endorsements made by Stamp Department, Kolkata Collectorate under section 32 of the Stamp Act, including the reference of adjudication case as given therein. The valuation of the instrument made under the Act of 1899 is stated to be Rs.4,98,500/-, as paid under challan dated 17th April, 2017.

The decree will be registered on payment of registration fee at the prescribed percentage of the value, on which the stamp duty was paid.

Writ petition is disposed of.

(ARINDAM SINHA, J.)

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