NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 155 of 2012

State Of Chhattisgarh through Sub Registrar, Bilaspur, District- Bilaspur (CG)

---- Petitioner

Versus

1. Chhattisgarh Board Of Revenue Bilaspur, through its Registrar
2. Shri Shankeral & Sons (HUF) aged about 47 years, S/o Late Shri Tekchand Harjpal
3. Smt. Godawari Harjpal, aged about 45 years, W/o Shankerlal Harjpal
4. Girdharilal & Sons (HUF), aged about 45 years, S/o Late Shri Tekchand Harjpal
5. Smt. Pooja Harjpal, aged 43 years W/o Shri Girdharilal Harjpal

   All resident of Sanichari Bazar Sindhi Mohalla, Bilaspur, Tahsil & District Bilaspur (CG)
6. Shri Sanjay Motwani, S/o Late Jairamdas Motwani & 4 Ors. R/o Katiyapara, Bilaspur, Tahsil & District -Bilaspur (CG)
7. Shri Rahul Motwani, aged about 22 years, S/o Vishanlal Motwani, R/o Sindhi Colony, Bhakt Kanwar Ram Nagar, Bilaspur, Tahsil & District-Bilaspur (CG)
8. Shri Ashok Kumar Budhwani, aged about 33 years, S/o Shri Mohanlal Budhwani, R/o Sindhi Colony, Bhakt Kanwar Ram Nagar, Bilaspur, Tahsil & District, Bilaspur (CG)
9. Smt. Vidyadevi Motwani, aged about 45 years, W/o Shri Murarilal Motwani, R/o Kasturba Nagar, Bilaspur, Tahsil & District-Bilaspur (CG)
10. Shri Ajay Kumar Bajaj, aged about 46 years, S/o Shri Sewakram Bajaj, R.O. Sindhi Colony, Bhakt Kanwar Ram Nagar, Bilaspur Tahsil & District-Bilaspur (CG)

---- Respondents

For Petitioner : Shri Alok Bakshi, Additional Advocate General

For Respondent No.2 to 5 : Shri Somnath Verma, Advocate

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

06/02/2020

1. This petition under Article 227 of the Constitution of India is preferred by the State aggrieved by the order dated 13th September 2010 passed by the Board of Revenue by which the Board of Revenue set aside the order dated 25.8.2010 of the Collector of Stamps in exercise of powers under Section 47-A of the Indian Stamp Act (in short "*the Stamp Act*"), in the matter of determination of market value of the subject property.

2. Respondent No. 2 to 5 purchased, vide registered sale deed dated 31.3.2010, the subject land, from respondent No.6 for a consideration of Rs.40 lakh. However, when the sale deed was presented for registration before the registering authority, the registering authority having reason to believe that market value has been under assessed, referred the matter for determination of the Collector of Stamps under the provision of Section 47-A of the Stamp Act.

3. The Collector of Stamps having allowed the parties to lead evidence and collecting information, passed order on 25.8.2010 determining the market value of the property as Rs.50,65,100/- and leviability of stamp duty to the tune of Rs.4,47,000/-

4. Aggrieved by the said order, the purchaser filed an application before the Board of Revenue challenging the order passed by the Collector of Stamps, mainly on the ground that proper inquiry was not done.

5. The Board of Revenue accepted the submission, ground raised and allowed the appeal giving rise to this petition.

6. Learned Additional Advocate General appearing for the State would argue that though, the finding contained in para-6 of the order passed by the Board of Revenue are to the effect that the Collector of Stamps has not arrived at proper and fair market value, instead of remitting the matter back for proper inquiry to the Collector of Stamps, it has

proceeded mechanically, accepting the market value as shown in the sale deed. He would submit that once the Board of Revenue recorded a finding that enquiry was not properly made towards determination of proper and fair market value, the matter ought to be remitted rather than mechanically accepting the rates quoted by the purchaser.

7. Learned counsel for the purchaser/respondents, No. 1 to 5 would, however, submit that the Board of Revenue has considered the entire material on record and has found justification in accepting the market value as assessed and stated in sale deed by the seller and purchaser.

8. I have heard learned counsel for the parties and gone through the impugned order.

9. A perusal of para-6 of the impugned order shows that the Board of Revenue recorded specific finding that the Collector of Stamps did not make proper enquiry before arriving at a proper and fair market value of the property, however, at the same breath, the Board of Revenue assumed to itself, the role of the Collector of Stamps and accepted the market value as stated in the sale deed.

10. In the considered opinion of this Court, the Board of Revenue, having recorded a finding that the determination of the market value of property was not preceded by proper enquiry by the Collector of Stamps, ought to have remitted the matter for fresh consideration by holding proper inquiry rather than accepting the market value as stated in the sale deed. The Board of Revenue acted illegally in exercise of its jurisdiction.

11. In view of above consideration, only on that ground, I am inclined to set aside the impugned order passed by the Board of Revenue to the extent it determines the market value of the subject property as Rs.40 lakh. The Collector of Stamps shall hold proper inquiry in terms of provision contained in Section 47-A of the Stamp Act as also relevant provisions contained in the Indian Stamp Act (Chhattisgarh Prevention of Undervaluation of Instruments) Rules, 1975 as also the Chhattisgarh

Preparation and Revision of Market Value Guidelines Rules 2000 as observed by this Court in its order dated 30.01.2020 passed in WPC No.306 of 2010. It shall afford opportunity to the purchaser also.

12. At this stage, it is relevant to mention the submission of the respondents that before the Collector of Stamps, the respondents had submitted material to accept that the market value of the subject matter of sale ought to be determined at Rs.40 lakh. Material which were earlier submitted and those which may be submitted before the Collector of Stamps shall be taken into consideration, if necessary. The Collector of Stamps may also get appropriate report obtained from the Deputy Registrar and he may also be examined.

13. The inquiry shall be concluded as early as possible preferably within a period of four months from the date of receipt of copy of this order.

14. The petition is accordingly allowed to the extent and manner indicated above.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen