NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 1620 of 2010

1. State Of Chhattisgarh Through the Collector of Stamps, Bilaspur, District Bilaspur, (CG)

---- Petitioner

Versus

1. Rajkumar Nebhani S/o. Late Jassumal Nebhani (appellant No.1)
2. Dileep Kumar Nebhani, S/o Late Jassumal Nabhani (appellant No.2)

   Respondents No.1 and 2 both are R/o. Torwa, Bilaspur, Tah. and District – Bilaspur, CG

3. Pramod Khedia S/o. Late Chunnilal R/o Minocha Colony, Bilaspur, Tah. And District – Bilaspur CG

---- Respondents

For Petitioner/State	:	Shri Alok Bakshi, Addl. A.G. with Shri Anmol Sharma, Panel Lawyer
For Respondents 1 and 2	:	Ms. Sharmila Singhai with Shri Sanjay Agrawal and Shri Shivanshu Pandey, Advocates

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

30/01/2020

This petition, under Article 227 of the Constitution of India, is preferred against order dated 02/09/2008 passed by the Board of Revenue, by which, the order dated 23/12/2004 of the Collector, Stamps has been set aside and the market value, as stated in the sale deed, has been accepted.

2. Land admeasuring 378.716 sq. mts. situated in sheet no.18, block No.9, plot No.89/2 was sold by respondent No.3 in favour of Rajkumar Nebhani and Dilip

Kumar Nebhani for a consideration of Rs.8,15,000/- vide a registered sale deed. The registering authority having reason to believe that the market value has been under stated, reference was made under Section 47-A of the Stamp Act to the Collector, Stamps. The Collector, Stamps issued notice to the parties and taking into consideration that the property under sale belong to the same purchaser, who had purchased adjacent land abutting main road, determined market value as Rs.14,86,500/-. On that basis, it also recorded that the stamp duty of Rs.1,46,792 would be leviable. Aggrieved by this order, the purchaser, Rajkumar Nebhani and Dilip Nebhani filed appeal before the Board of Revenue. The Board of Revenue, having recorded finding that the determination of market value is not based on actual location of the land but more on consideration that the purchaser had purchased another plot contiguous to the said land which is abutting main road, is not proper and in accordance with the principles of determination of market value. On such consideration, the Board of Revenue accepted the market value as stated in the sale deed being Rs.8,15,000/-.

3. Learned Additional Advocate General, assailing legality and validity of the order, argued that even if the order of the Board of Revenue that the basis for determination was not based on actual location of the plot, but on other considerations, the Board of Revenue ought to have remanded the case for proper determination to the Collector, Stamps but it exceeded its authority in holding that the proper market value is Rs.8,15,000/- only on the basis that it was so recited in the sale deed.

4. Learned counsel appearing for the respondent would submit that once the Board of Revenue found that the basis for determination of market value was based on irrelevant consideration, as a natural corollary thereto, the market value, as recited in the sale deed was accepted and there is no illegality in the same.

5. I have heard learned counsel for the parties and perused the records.

6. As in the sale deed, market value of the subject land was stated as Rs.8,15,000/-, according to the Sub-Registrar, the market value as per applicable guidelines was Rs.21,58,700/-. This, however, was not accepted by the Collector, Stamps. The Collector, Stamps stated in its order that taking into consideration that the subject land was contiguous to the land which was earlier purchased by the same purchaser and it is appurtenant to the main road, though the market value would not be as high as proposed by the Deputy Registrar in its report, it determined the market value as Rs.14,86,500/-.

7. The Board of Revenue recorded finding that the approach of the Collector in determining market value was erroneous on the premise that instead of determining market value based on actual location of the land, the Collector, Stamps took into consideration that the purchaser had purchased a contiguous land appurtenant to the main road.

8. Even if the finding of the Board of Revenue is accepted, the order of the Board of Revenue does not show as to on what basis, the Board of Revenue, as appellate authority, determined that the market value would be as stated in the sale deed.

9. In the matter of determination of the market value, the Collector is required to make proper enquiry. What has been stated in the sale deed is not final. Even if the market value, as determined by the Collector is without taking into consideration the actual location of the land which is 80 feet away from the main road, what should be the true market value, is required to be determined by the Collector by taking into consideration the notified rates under the guidelines approved by the Central Valuation Board and other relevant considerations which are enumerated in Rule 5 of

the Indian Stamp Act (Chhattisgarh Prevention of Undervaluation of Instruments) Rules, 1975 (for short 'the Rules of 1975'). Not only this, another set of Rules known as the Chhattisgarh Preparation and Revision of Market Value Guideline Rules, 2000 (for short 'the Rules of 2000') are also required to be taken into consideration. The Board of Revenue neither considered any material to reach to the conclusion that Rs.8,15,000/- was the true market value nor remitted the matter for proper enquiry to the Board of Revenue. Thus, without any determination, either by itself or by the Collector, Stamps, the Board of Revenue mechanically accepted the market value as Rs.8,15,000/-. Therefore, the order passed by the Board of Revenue is patently illegal and perverse and cannot be sustained in law.

10. Accordingly, the order of the Board of Revenue, to the extent it accepts the market value as Rs.8,15,000/- is set aside. Though, this Court, is not inclined to interfere with other findings, it would be only proper that the market value is determined on the basis of actual location of the plot and not on the basis of the fact that the purchaser happens to be purchaser of another adjoining plot which is adjacent to the main road. For that purpose, it would be proper that the Collector, Stamps conducts fresh enquiry after affording opportunity of hearing to the respondents and determining the market value in accordance with the provisions contained in the Stamp Act, Rules of 1975 and Rules of 2000. While making such determination, the guideline rate, as notified by Central Valuation Board in 2004, if available, shall also receive due consideration.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Deepti