

22.06.2022
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WPA 5350 of 2021

M/S Tekpan Food & Herbal Park LLP & Anr.

-Vs-

The State of West Bengal & Ors.

Mr. Saptangshu Basu,
Mr. Kushal Chatterjee,
Mr. Sunil Singhanian,
Mr. Debrup Bhattacharya,
Ms. Twinkle Kaur,

... for the petitioners

Mr. Sirsanya Bandopadhyay,
Mr. Arka Kumar Nag

... for the State

The petitioners are aggrieved by sudden alleged and arbitrary increase of the market value of the property from Rs. 1.95 crores as on 2nd October, 2019 to Rs. 32.52 crores as on 1st November, 2019. It is the case of the petitioners that the said property was a subject matter of court sale and the petitioners applied for assignment of the said property as a nominee of the applicant before the Court.

Learned counsel appearing for the petitioners relies on Section 47A of the Indian Stamp Act, 1899, to submit that there has to be “reason to believe” requirement for any change in the market value of a property.

Learned counsel appearing for the State submits that the petitioners were not a party before the Court at the time of court sale and that subsequent assignment and execution of deed of lease has contributed to sudden increase in the valuation of the property.

After hearing counsel, the point whether the court sale would amount to an open market sale was considered by a Three Judge Bench of this Court in *State of West Bengal Vs. Sati Enclave Pvt. Ltd; 2010(3) CHN (CAL) 651*. In the said decision, not only the Special Bench decided that a court sale would amount to an open market sale subject to certain conditions being fulfilled such as wide publication etc. but also that the registering authority cannot exercise any power under Section 47A of the 1899 Act, if the sale has been conducted or concluded by the Court through its officers. The order passed by the learned Judge of this Court in *CA No. 303 of 2018 with C.P. No. 66 of 1988 (M/S Kanoria Wisconsin & Centrifugal Ltd (In Liqn.) and Chaudhry & Sons (Forgings) Pvt. Ltd. Vs. The O/L, High Court)*, on 28th February, 2019, confirming the court sale in favour of one Chaudhry & Sons was also on an application filed by the petitioner for execution of deed of assignment in respect of the leasehold land of the company in favour of the nominee of the applicant. The petitioner was the nominee of the applicant, which would also be evident from the order passed by the

learned Judge. Hence, the contention that the petitioners came in as subsequent entity to the transaction necessitating change in the market value of the property is without any basis and is accordingly, rejected.

Although Section 47A(h) of the 1899 Act, as introduced by the West Bengal amendment with effect from 31st January, 1994, requires that the registering authority must have reason to believe that the market value of the property has not been truly set forth in the instrument presented for registration before making any changes to it, this aspect is not being gone into in view of the Special Bench decision of this Court, which has already been referred to above.

In any view of the matter, increasing the market value of the property from Rs. 1.95 crores to Rs. 32.52 crores within a space of a month is arbitrary and untenable to say the least. The respondent authorities have not come up with any credible explanation for the same. The decision should hence be quashed.

WPA 5350 of 2021 is accordingly allowed and disposed of by setting aside the impugned order dated 1st November, 2019. The respondent authorities are directed to register the deed of lease in favour of the petitioner no. 1 within a period of fortnight from the date of communication of this order. It may also be recorded that the petitioners have deposited the entire

amount of stamp duty and the registration fee in respect of the property.

(**Moushumi Bhattacharya, J.**)