AD-17
Ct No.09
15.12.2022
TN

WPA No. 37381 of 2013

Sri Piyush Saraogi
Vs.
The State of West Bengal and others

Mr. Ayan Banerjee,
Mr. Soumo Chaudhury
.... for the petitioner

Mr. Debjit Mukherjee,
Mrs. S. Chatterjee
.... for the State

Heard learned counsel for the parties.

The contention of the petitioner is that the Deputy Inspector General of Registration, Range-III, Hooghly acted palpably without jurisdiction in assessing the market value of a property for the purpose of calculating stamp duty on the premise that the land would be used for industrial purpose, whereas there is nothing on record or in the deed to indicate such use.

Learned counsel for the petitioner places reliance on Section 47A of the Indian Stamp Act, 1899 (West Bengal Amendment) to argue that Sub-Section (1) of the said Section provides that the Registering Officer, only if he has reason to believe that the market value of the property which is the subject-matter of any such instrument has not been truly set forth in the instrument presented for registration, may, after receiving such instrument, ascertain the market value of the property which is the subject-matter of such instrument in the manner prescribed and compute the proper stamp duty chargeable on the market value so ascertained.

However, in the present case, there is no scope of there being any such "reason to believe" on the part of the Deputy Inspector General.

Learned counsel further argues that the enhancement of the assessed market value is virtually a revision of the annual statement of rates of immovable property, without there being any such revision on record.

Rule 3D of the West Bengal Stamp (Prevention of Undervaluation of Instruments) Rules, 2001 provides that the annual statement of rates of immovable property, as referred to in Rule 3B thereof, shall be revised annually by the Registering Officer in consultation with the appropriate District Registrar and the same shall be communicated to the Inspector General of Registration and Commissioner of Stamp Revenue, West Bengal for updating the CORD software. In the present case, no such exercise was undertaken.

Learned counsel further contends that after the introduction of the CORD software, the same has to be used for the determination of the market value. In the present case, the said rule was not adhered to, it is submitted.

Learned counsel further argues that when the purported inspection of the land was held, the person concerned did not physically visit the land and, as such, the assessment is based merely on conjecture.

Learned counsel for the petitioner cites a coordinate Bench judgment of this court reported at *AIR 2016 Cal 357 [Chandramallika Suppliers Private Limited & Anr. vs. The State of West Bengal & Ors.].* In paragraph no. 29 of the same, it is observed that the question that required consideration in the said case was whether the "Proposed Land Use" column – when required to be filled-up by an applicant, will have any time frame attached to it or not.

While deciding such issue, the learned Single Judge proceeded to observe that preparation of market value of the concerned land and the rate per square feet of market value of any flat or structure for residential or commercial or semi-commercial use has to be determined in the manner laid down under the various clauses under Rule 3B. It is submitted that, in the absence of any deviation in the settled market rate as appearing in the CORD software or otherwise, it was beyond the jurisdiction of the DIG to pass the impugned order of assessment.

Heard learned counsel.

The cited judgment, in paragraph no. 29 thereof, clearly delineates the question which was formulated for being answered therein. The question was whether the “Proposed Land Use” column, when required to be filled up, will have any time frame attached to it or not. In such context, the learned Single Judge considered the interplay of Rules 3A to 3B of the 2001 Rules and came to a conclusion.

However, the entire ambit of dispute there was whether it was imperative to attach a time frame to the details to be filled up under the column “Proposed Land Use”.

However, the ratio of the said judgment has no nexus with the present writ petition and, as such, is not attracted in the present case.

Insofar as the operation of Section 47A of the West Bengal Amendment to the Stamp Act is concerned, the same clearly stipulates that wherever there is reason to believe that the market value of the property has not been truly set forth, after receiving the instrument, the Registering Officer appointed under the Registration Act shall ascertain the market value of the property.

It is clear that the perception and notion of the Registering Officer in that regard is sufficient to initiate a proceeding under Section 47A. There is no stipulation in the statute mandating the recording of prior satisfaction or giving any hearing to any party prior to the Registering Officer proceeding on the basis of the said provision.

Learned counsel for the petitioner is justified in submitting that Rule 3D of the 2001 Rules stipulates the provisions as to revision of annual statement of rates of immovable property. However, the question which arises in the present case is whether the Registering Officer, while exercising his power under Section 47A (West Bengal Amendment) can vary the assessment from the revised market rate as appearing in the CORD software.

What has been done in the present impugned assessment is that the DIG, Registration observed that the seller of the land was one Hindustan Agro Project India Limited who had purchased the said land for the use of industrial purpose. A deed number has also been referred in such context. It has further been observed that the land is presently lying uncultivated and, of course, has got the potentiality and viability for industrial use.

Only upon such reasonable premise did the DIG proceed to make the assessment. Even in paragraph no. 20 of the judgment cited by the petitioner (although the citation itself is not applicable on point of ratio in the present case), the learned Single Judge observed that the judgments of the Supreme Court relied on by the learned Advocate General for the State in the said matter clearly defines market value, which includes in its definition its *potential value*.

The significance of the word "potential", it was held, should not be lost sight of and it connotes, by itself, something having such latent qualities which have a capacity to develop or lead to future success or usefulness.

In such view of the matter, even the cited judgment of the petitioner supports the contention of the authorities and not the petitioner.

In the present case, what was done by the DIG was precisely to assess the potentiality and viability for industrial use of the land-in-question and to arrive at a reasoned conclusion on the valuation.

The allegation, that no physical inspection was made, is neither here nor there. Such allegation was not levelled before the Officer at the time of hearing as well, in which the petitioner's representative was present.

Be that as it may, the ratio in the said assessment which is under challenge and the reasoning process of the same cannot be doubted in any manner whatsoever and does not carry any patent *mala fides* or arbitrariness. As such, there is no scope of interfering with the valuation assessed by the DIG, Registration, Range-III, Hooghly.

Hence, WPA No. 37381 of 2013 is dismissed on contest without any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)