Form J(2) **IN THE HIGH COURT AT CALCUTTA**

Constitutional Writ Jurisdiction

Appellate Side

Present :

The Hon'ble Justice Bibek Chaudhuri

WPA 17754 of 2013

Haldiram Bhujiawala Ltd.

Vs.

State of West Bengal & Ors.

For the petitioner	:	**Ms. Manju Agarwal, Ms. Anju Manot, Mr. Rishi Agarwal**
For the State	:	**Mr. Wasim Ahmed, Mr. Anand Farmania**

Judgement on : 28.08.2023.

Bibek Chaudhuri, J.

A purchase of a plot of land on 5th July, 2008 containing an area measuring about 5 cottahs 12 chitaks and 2 square feet together with G+8 storeyed structure standing thereon was purchased by the petitioner at a total consideration of Rs.12 crore. On acceptance of consideration price and delivery of possession of the property, a deed of conveyance was executed and presented for registration with the Registrar of Assurance-II, Kolkata on the self-same date. At the time of registration of the said deed of conveyance, the petitioner deposited a sum of Rs.84 lakhs dated 4th July, 2008 by virtue of bank draft executed by several banks, drawn in favour of the Registrar of Assurance-II, respondent No.2 herein. The petitioner also paid registration charges which is leveyable @ 1.1 % of the consideration amount. The Registrar of Assurance-II, however, had kept the deed pending for assessment of market value. On or about 8th January, 2010, the petitioner came to know that the assessment of valuation of the property was made without verification/inspection of the said premises. The petitioner came to learn that the respondent No.2 had determined the market value of the said premises at Rs.25,48,41,833/- only. Such assessment of market value was made without giving any opportunity to the petitioner of hearing. No contemporaneous deed was verified or examined. According to the petitioner, such assessment was whimsical, fanciful and made by AR-II without any basis. By a letter dated 11th January, 2010, the petitioner requested the respondent No.2 to refer the matter to the Deputy Inspector General of Registration Range-I, West Bengal, the respondent No.3 herein for reconsideration of the valuation of the said premises. The matter was accordingly referred to the respondent No.3. The petitioner was called upon to attend the hearing before the respondent No.3 on 19th January, 2010 for determination of market value under sub-section 5 of Section 47A of the Indian Stamp Act, 1899. On the date of hearing i.e., on 15th February, 2010, the petitioner filed its written objection with the respondent No.3 against the determination of the market value made by the respondent No.2 in respect of the said premises. Series of objections were raised by the petitioner before the concerned authority. Subsequently on 17th February, 2010 the respondent No.3 visited the said premises for inspection. Finally on 25th February, 2010 the respondent No.3 determined the market value at Rs.20,46,83,000/- under sub-section 5 or sub-section 8 of Section 47A of the Indian Stamp Act putting the date of valuation on 17th February, 2010.

It is contended by the petitioner that the building standing on the subject land was constructed sometimes in the year 1949-50. It is a semi-commercial building. It required thorough renovation work. There was no electricity at the relevant point of time. There was also no lift facility available in the said building. However, the respondent No.3 adopted Floor Space Index (FSI) method in determining the market value of the subject matter of the said deed.

It is also contended by the petitioner that at the time of hearing before the respondent No.3, computerization of registration of documents (CORD) was introduced at the office of ARA-II, Kolkata and the system generated valuation of the said premises was Rs.6,97,26,663/-. However, the respondent No.3 rejected the said assessment slip without assigning any ground. The assessment of the market valuation of the vacant land situated in the subject land was calculated on some unfounded ground and at different points of time the Registering Authority calculated the market value of the subject land with building at different price rate. As for example on 5th July, 2012, the respondent No.2 assessed the market value of the said property under two categories, namely, valuation of the land at Rs.6,73,01,106/- and valuation of the building at Rs.1,61,27,800/- total being Rs.8,34,28,906/- which is far less than the valuation of the petitioner's deed of Rs.12 crore. Finally, the respondent No.4 submitted fresh assessment slip showing market value of Rs.37,49,63,220/- adopting Floor Space Index Method violating the Government rules and notifications made in this respect from time to time. The letter issued by the respondent No.4 to the respondent No.2 stating arbitrary market value at Rs.18 crore is the subject matter of the instant writ petition.

The Assistant Commissioner filed an affidavit-in-opposition on behalf of the respondent No.4 controverting the allegations made by the petitioner in the writ petition. Specific case of the respondent No.4 is that market value under challenge in respect of a deed of conveyance dated 5th July, 2008 was in respect of land measuring about 5 cottahs 12 chataks and 2 square feet with G+8 storeyed building measuring about 25 square feet built up area. Registration of the said deed was pending because the ARA-II assessed the market value of the property at Rs.25,48,41,833/-. The assessment was made estimating covered area at 80 per cent of the land since no sanctioned plan was produced indicating the covered area. ARA-II calculated the market value on the basis of the covered space index of the building as well as the land value prevailing at the relevant point of time. There is no ambiguity in fixing the market value at the relevant point of time. It is further stated on behalf of the respondent No.4 that Computerization of the Registration of Documents (CORD) was introduced on 5th October, 2010 and the deed was placed for registration in the year 2008. Therefore, the application of CORD was not available for calculation of market value in the year 2008.

The learned advocate for the respondents submits that the petitioner has an alternative efficacious remedy under Section 47C of the Indian Stamp (West Bengal Amendment) Act, 1998 and the petitioner can file a revision before the Chief Controlling Revenue Authority against the impugned order passed by the Commissioner, Presidency Division on 25th March, 2013. The respondent has filed a written instruction. Let the instruction be kept with the record.

Having heard the learned advocate for the parties and on careful perusal of the entire materials on record this Court is surprised to note that the Registering Authority fixed the market rate of the subject land and building differently at different points of time. The impugned order says that the market value of the subject land and building is Rs.18 crore vide order dated 25th March, 2013. The ARA-II, Kolkata submitted a query report in respect of the market value of the property on 5th July, 2012 which quoted the market value of the said land and property at Rs.8,34,28,906/- on 5th July, 2012. In 2008 the petitioner submitted a deed with market value of Rs.12 crore. Therefore, this Court fails to understand how the Registering Authority denied registration of the deed in question on the basis of the stamp duty paid on Rs.12 crore in the year 2008, when in 2012 the assessed market value of the Government of West Bengal was Rs.8,34,28,906/-.

Considering such aspect of the matter this Court is of the firm opinion that denial to register the deed of conveyance of the petitioner dated 5th July, 2008 is not only harassive but also arbitrary and mala fide. When in the year 2012 query of the Registration Authority suggested that the market value of the subject land and property was Rs.8 crore and 34 lakhs and odd, this Court fails to understand why the Registering Authority refused to register a deed in the year 2008 when the petitioner stated the market value of the property at Rs.12 crore and paid the stamp duty and registration cost thereof.

In view of the above discussion, this Court finds the impugned order passed by the Commissioner, Presidency Division on 25th March, 2013 is liable to be quashed and set aside. Accordingly, the impugned order is quashed and set aside.

The Registering Authority specially the respondent No.2 is directed to register the deed dated 5th July, 2008 on the basis of the market value of Rs.12 crore shown by the petitioner herein and to release the deed within a fortnight after registration.

The instant writ petition is **disposed of.**

The parties are at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)