IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10416 OF 2022

Gangadhar Karbhari Jadhav ....PETITIONER
V/S
The State of Maharashtra & Ors. ....RESPONDENTS

...

Mr. Pralhad Paranjape a/w Mr. Rahul Punjabi for the Petitioner.
Mr. P.P. Pujari, AGP for Respondents/State.

...

CORAM : SANDEEP V. MARNE, J.
DATE : OCTOBER 27, 2023.

P.C.:

1 In this Petition the Petitioner challenges the order dated 7 July 2022 passed by the Chief Controlling Revenue Authority & Inspector General of Stamps, Pune, rejecting Petitioner's Revision in which he had challenged the order dated 4 June 2021 passed by the Deputy Inspector General of Registration & Deputy Controller of Stamps, Nashik. The Deputy Inspector General of Registration has valued the property purchased by the Petitioner at Rs.3,68,74,600/- and determined the stamp duty payable at Rs.14,75,000/-.

2 I have heard Mr. Paranjape, the learned Counsel appearing for the Petitioner. He would submit that the present case is governed by the

provisions of guideline No.23D(ii) of the General Guidelines. That the authorities have erroneously applied guideline No.23C(ii). The relevant guideline being Nos. 23C and 23D read as under:

> 'C) In the Value Rate Chart (Annual statement of Rates), if the land, which is not converted into non-agricultural use, is included in non-agricultural/developed value zone, situated in the impact as well as urban areas, having no development scheme and if the residential/commercial/ industrial use is admissible on such land, as per regional plan rules and zone certificate:
>
> i) If authorised approach road (road in approved demarcated plan or other existing public roads) is available to such land, then such land should be considered as potential non-agricultural land/ developable land and valuation of such land shall be made, as per the Notice No.16(B) for gross land in residential use zone at value rate in the value zone viz. adjoining potential non-agricultural/ developable land of the said village, having similar merits and demerits.
>
> ii) However, if authorised approach road (road in approved demarcated plan or other existing public roads) is not available to such land, then the valuation of such land shall be made as per Notice No. 16(b) by considering the rate at 70% of the aforesaid rate.
>
> D In the Value Rate Chart (Annual Statement of Rates), if the land which is not converted into non-agricultural land is included non-agricultural/developed/potential non-agricultural/ developable value zone, situated in impact as well as urban areas, having no development scheme and on such land, if residential/commercial/ industrial use is not admissible,as per the Regional Plan Rules and Zone Certificate :-
>
> i) and authorised approach road (road in approved demarcated plan or other existing public roads) is available to such land, the

valuation of such land shall be made at 40% rate of the said value zone Rate or the value zone rate of adjoining Jirayat/agricultural use of the said village, having similar merits and demerits. whichever is higher and by using the table of gross land in the Notice No.16(A).

ii) However, if authorised approach road (road in approved demarcated plan or other existing public roads) is not available to such land and both rates, viz. Per sq. mtr and per hectare are applicable to such lands, then valuation of such land shall be made at per hectare rate only. However, if only per sq.mtr. Rate is applicable to the land, then valuation shall be made at the rate of adjoining Jirayat/agricultural land, having similar merits and demerits.'

3 It appears that guideline No.23D is applicable in cases of lands which are not converted into non-agricultural use but are included in non-agricultural/ developed/ potential non-agricultural/developable value zone for which residential/commercial/industrial use is not admissible as per Regional Plan Rules and Zone Certificate. On the contrary guideline No.23C applies to lands where such residential/commercial/industrial use is admissible as per the Regional Plan Rules and Zone Certificate.

4 According to Mr. Paranjape, the word 'and' is used between the words 'Regional Plan Rules' and 'Zone Certificate'. He would therefore submit that admissibility of use for residential/commercial/industrial purposes must be reflected both in Regional Plan Rules as well as in the Zone Certificate. He would invite my attention to the Zone Certificate

dated 8 September 2020 issued by the Nashik Metropolitan Region Development Authorities under which the land at Gat Nos.1417 and 1514 is shown to be coming under Agricultural Zone. Mr. Paranjape would therefore contend that as per the Zone Certificate, residential/ commercial/ industrial use is not admissible.

5 In my view, the Zone Certificate merely certify the exact zone within which the particular portion of land is situated. The exact use for which the land can be developed is governed by the provisions of the Unified Development Control Regulations. Perusal of the order dated 4 July 2022 passed by the Chief Controlling Revenue Authority (**CCRA**) would indicate that the land bearing Gat No.1417 is situated within the distance of 500 meters of Gaothan and as per the UDCPR, residential/commercial/ industrial use is admissible for that land. It is thus clear that in respect of the land of the Petitioner, residential/commercial/industrial use is clearly admissible under the provisions of UDCPR.

6 Petitioner cannot be permitted to take benefit of contents of the Zone Certificate certifying that the land is covered by Agricultural Zone for the purpose of seeking a rebate in payment of stamp duty and later make use of the provisions of UDCPR for actually developing the land for residential/commercial/ industrial/agricultural use. This is not the intention or objective behind framing guidelines. The guidelines

No.23(d) would essentially apply only to such property which cannot be put to use for residential/commercial/ industrial purposes for which valuation at concessional rate is prescribed. The key, to my mind, appears to be the exact use to which the land can be subjected to and not the purpose/zone indicated in the zone certificate. Interpretation of Guidelines by Petitioners presents a skewed and myopic reading thereof, which defeats the objective behind charging stamp duty at a concessional rate in respect of land which can actually not be developed for residential/industrial/commercial purposes.

7 In my view, since the CCRA has already held that the Petitioner's land can be used for residential/commercial/industrial purposes under the UDCPR, the Petitioner cannot be permitted to rely upon Zone Certificate selectively for the purpose of seeking a rebate in payment of stamp duty.

8 No patent error is traced in the orders passed by Respondent Nos.2 and 3. The Writ Petition, being devoid of merits, is dismissed without any order as to costs.

(SANDEEP V. MARNE, J.)