IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) NO.7245 of 2018

1) M/s J.P. Realities Pvt. Ltd., through its Director, Shri Jayprakash Gurudasmal Khulani, Aged about 55 Years, Occupation – Business, R/o: 48, Residancy Road, Byramji Town, Sadar, Nagpur.

2) Shri Jaiprakash S/o Gurudasmal Khushlani, Aged about 55 Years, Occupation – Business, R/o: 48, Residancy Road, Byramji Town, Sadar, Nagpur.

.... Petitioner(s)

// VERSUS //

1) Inspector General of Stamps Pune (M.S.).

2) The Collector of Stamps,
New Administrative Building No.2, A Wing, 3rd Floor, Civil Lines, Nagpur.

3) The Joint District Registrar (Class-I), Higher Grade, Plot No.10, Junghare Niwas, Shivaji Nagar, Nagpur.

... Respondent(s)

Shri T.D. Mandlekar, Advocate for the Petitioner/s
Ms H.N. Jaipurkar, AGP for the Respondent Nos.1 to 3/State

CORAM : ANIL S. KILOR, J.
DATED : 05.07.2023

ORAL JUDGMENT :

1. Heard.

2. **Rule**. Rule made returnable forthwith. Heard finally by consent by the parties.

3. The present petition pertains to directions issued by the Collector (Stamps), Nagpur to pay deficit stamp duty in respect of instrument, namely sale deed. The admitted facts in the present matter are that, in an inspection report of assessment, levy collection refund, remission of the stamp duty and registration fee of the office of the Joint Sub-Registrar, Nagpur-8, District Nagpur for the period of 01.01.2007 to 31.12.2007, there is a reference about the transaction of the petitioners i.e. sale deed bearing document No.284 of 2007, which was executed by the petitioners as purchaser. The land in question is admeasuring 6503.15 sq. meters situated at the Mauza Nagpur.

4. As per objection of the Accountant General, Nagpur the stamp duty of Rs.21,58,990/- was charged on the market value of

Rs.3,96,18,000/- of the property. The levied stamp duty was Rs.21,78,990/- @ 5.5% of the market value of the property. On detailed scrutiny of the document, it was revealed that the market value of the property was Rs.5,20,44,560/- and @ 5.5% stamp duty comes to Rs.28,62,450/- i.e. resulted in short levy of stamp duty of Rs.6,83,460/-.

5. However, the Accountant General opined that the report of the competent authority be called in the said matter. Accordingly, the Joint District Registrar Class-I, Nagpur City submitted its report on 18.07.2009, holding that appropriate stamp duty was paid by the petitioners and the objection of the Accountant General was rejected.

6. Thereafter, on 09.03.2017, almost after eight years, the Collector of Stamp Nagpur issued the impugned communication, directing the petitioners to pay stamp duty to the tune of Rs.6,83,460/-.

7. From the impugned communication date 09.03.2017, it is evident that the Collector (Stamps), Nagpur has not considered and referred to the report of the Joint District Registrar, Class-I, Nagpur, who has held that the petitioners have paid proper stamp duty and the objection therefore, raised by the Accountant General, was rejected.

8. The learned AGP has not pointed out any subsequent order by any of the competent Authority holding that the stamp duty paid by the petitioners, was not as per the market value and directing the petitioners to pay the deficit stamp duty. In absence of any such order by the competent authority, the issuance of order 09.03.2017 is contrary to law, particularly, in light of the report of the Joint District Registrar, Class-I, Nagpur.

9. Moreover, no opportunity of being heard was given to the petitioners before issuing such communication and though in the impugned communication, there was a mention that from time and again, the petitioners were informed to remit the amount of stamp duty and fine which was paid less, no details are given about correspondences made with the petitioners as regards the stamp duty and fine recoverable from the petitioner. Accordingly, I pass the following order:

(i) The writ petition is **allowed**.

(ii) The communication dated 09.03.2017 issued by the Collector (Stamps), Nagpur, is hereby quashed and set aside.

(iii) Liberty is granted to the respondent No.2 to initiate proceeding if he so desires, for recovery of stamp duty, subject to following due procedure of law and after hearing the petitioners.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]