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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3079/2022**

VIVEK GUPTA

..... Petitioner

Through: Mr. Jayant Mehta, Sr. Advocate with
Ms. Bani Dikshit and Mr. Kishan
Kumar, Advocates.

versus

COLLECTOR OF STAMPS & ORS.

..... Respondents

Through: Mr. Anupam Srivastava, ASC for
GNCTD with Mr. Vasuh Misra,
Advocate for R-1 and 2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

07.02.2024

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1. The Petitioner has approached this Court challenging the Order dated 11.12.2020 rejecting the protest letter given by the Petitioner against the levy/payment of excessive stamp duty of Rs.37,90,000/- and registration fee of Rs.8,08,000/-.

2. The facts of the case reveal that the property bearing No.C-41, measuring 400 Square Yards, situated at Mayfair Garden, New Delhi (*hereinafter referred to as "property in question"*) was purchased by Respondent No.3 and 4 for a sum of Rs.18,31,00,000/- *vide* Sale Certificate dated 20.05.2019 in an auction conducted by the bank under the SARFAESI proceedings. The Petitioner herein purchased the property in question from Respondent Nos.3 and 4 on 13.11.2020 for total sale consideration of Rs.19,50,00,000/- i.e., roughly 18 months post the auction purchase. It is stated that when the Petitioner approached the authorities, the Petitioner was asked to pay the stamp duty of Rs.1,35,40,000/- which according to the

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Petitioner was far in excess to the stamp duty to be paid on the Sale. The Petitioner, thereafter, filed a protest letter before the Sub-Registrar.

3. The Sub-Registrar by the Impugned Order has rejected the protest letter of the Petitioner by observing as under:

Sub: Protest letter against levy/payment of excessive stamp duty of Rs.37,90,000/- & registration fee of Rs.8,08,000/- under protest.

Sir/Madam,

With reference to your letter dt. 13/11/2020 on the subject cited above, received in this office on 13/11/2020, it is informed that 'Sale Deed' and 'Sale Certificate' are different documents and comes under different Articles i.e. Article 23 and Article 18 respectively under Stamp Act, 1899. Both the documents have been registered as per the provisions of the Stamp Act, 1899, Registration Act, 1908 and Circle Rate Notification dt. 22/09/2014, issued by the Spl IGR (Registration), Delhi.

Yours faithfully

**SUB REGISTRAR
(V-A), HAUZ KHAS”**

4. The reason given by the Sub-Registrar that both the documents i.e., “Sale Deed” and “Sale Certificate” are incomparable and that the stamp duty which has been directed to be paid is appropriate is not tenable in law. At this juncture, it is apposite to reproduce Section 47A of the Indian Stamp Act application in State of Delhi. Relevant portion of Section 47A reads as under:

“47A (1) If the Registering Officer, while registering any instrument transferring any property, has reason



to believe that the market value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the market value or consideration, as the case may be, and the proper duty payable thereon.”

5. A perusal of the Section 47A of the Indian Stamp Act shows that if the Registering Officer, while registering any instrument transferring any property, has reason to believe that the market value of the property or the consideration has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the market value or consideration. In fact the registering officer has not given any reason to believe that the market value of the property has not been set out in the instrument or that a higher stamp duty is payable while considering the protest petition.

6. The reason given by the Sub-Registrar while rejecting the protest letter is not in accordance with Section 47A of the Indian Stamp Act. Resultantly, the Impugned Order dated 11.12.2020 is set aside. The Sub-Registrar is directed to re-consider the protest letter given by the Petitioner within four weeks from today in accordance with law.

7. In view of the above, the writ petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 7, 2024

S. Zakir