IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL APPEAL NO.14 OF 2024
IN
COMMERCIAL EXECUTION APPLICATION NO.22 OF 2016

The Collector of Stamps,]
Mumbai City,]
Government of Maharashtra,]
Third Floor, Old Custom House,]
Shahid Bhagat Singh Marg,]
Fort, Mumbai – 400 001.] … Appellant

Versus

1. Pinak Bharat & Co.]

2. Bina V. Advani]
Both having their address]
at Office No.323-A,]
Shah & Nahar Industrial]
Estate, A-I, Sitaram Jadhav]
Marg, Lower Parel,]
Mumbai – 400 013.]

3. Anil Ramrao Naik]
Flat No.3, Amarkunj, 3rd Floor]
Veer Savarkar Marg,]
Shivaji Park, Dadar,]
Mumbai – 400 028.] … Respondents

WITH
COMMERCIAL APPEAL (L) NO.28626 OF 2023
IN
COMMERCIAL EXECUTION APPLICATION NO.22 OF 2016

1. Pinak Bharat & Co.]

2. Bina V. Advani]
both having their address]

at Office No.323-A,]
Shah & Nahar Industrial]
Estate, A-I, Sitaram Jadhav]
Marg, Lower Parel,]
Mumbai – 400 013.] … Appellants

Versus

1. Anil Ramrao Naik,]
Flat No.3, Amarkunj, 3rd floor,]
Veer Savarkar Marg, Shivaji Park,]
Dadar, Mumbai – 400 028.]

2. Collector of Stamps, Mumbai City,]
having his office at 310, 3011,]
Old Custom House,]
Ballard Estate, Mumbai – 400 001.] … Respondents

WITH
INTERIM APPLICATION (L) NO.1988 OF 2025
IN
COMMERCIAL APPEAL (L) NO.28626 OF 2023
IN
COMMERCIAL EXECUTION APPLICATION NO.22 OF 2016

1. Pinak Bharat & Co.]

2. Bina V. Advani]

both having their address]
at Office No.323-A,]
Shah & Nahar Industrial]
Estate, A-I, Sitaram Jadhav]
Marg, Lower Parel,]
Mumbai – 400 013.] … Applicants

IN THE MATTER BETWEEN :

1. Pinak Bharat & Co.]

2. Bina V. Advani]

both having their address at Office No.323-A, Shah & Nahar Industrial Estate, A-I, Sitaram Jadhav Marg, Lower Parel, Mumbai – 400 013.	]	… Appellants

Versus

1. Anil Ramrao Naik, Flat No.3, Amarkunj, 3rd floor, Veer Savarkar Marg, Shivaji Park, Dadar, Mumbai – 400 028.	]	
2. Collector of Stamps, Mumbai City, having his office Old Custom House Fort, Mumbai – 400 001.	]	… Respondents

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Smt Jyoti Chavan, Addl.G.P. for State Appellant in COMAP/14/2024 and for Respondent No.2 in COMAPL/28626/2023.

Mr Mayur Khandeparkar a/w Mr Prerak A. Sharma, for the Appellant in COMAPL/28626/2023 and for Respondent No.2 in COMAP/14/2024.

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CORAM : ALOK ARADHE, CJ &
M. S. KARNIK, J.

DATE : 17th MARCH, 2025

<u>JUDGMENT (Per M. S. Karnik, J.) :-</u>

1. These Appeals challenge the order dated 27th March 2019 passed by the learned Single Judge of this Court. The appellant-Pinak Bharat & Co. in Commercial Appeal (L)

No.28626 of 2023 is aggrieved by that part of the impugned order which stipulates "if the sale price is at or below the valuation obtained, then the valuation will serve as the current market value"; whereas the Appellant- the Collector of Stamps, Mumbai City in Commercial Appeal No.14 of 2024 challenges that part of the impugned order whereby it is held that the Collector of Stamps cannot determine true market value of a property sold in public auction conducted by Court and the valuation report obtained by the Court should be accepted. Since the common order is under challenge, the present appeals are disposed of by a common judgment and order.

2. We refer to the facts in Commercial Appeal (L) No.28626 of 2023. The Appellant No.1-Pinak Bharat & Co. (hereinafter referred to as "Pinak Bharat & Co." for short) is a partnership firm and the Original Judgment Creditor. The Appellant No.2 is the partner of Appellant No.1 as well as the partner of M/s. Win Win Associates, a sister concern of Pinak Bharat & Co., in whose favour the sale of the subject property came to be confirmed vide Order dated 30th October 2018 and the Certificate of Sale dated 30th November 2018 came to be

issued. Respondent No.1- Anil Ramrao Naik is the Original Judgment Debtor. Respondent No.2 is the Collector of Stamps (hereinafter referred to as "the Collector of Stamps").

3. A few relevant facts material to the decision are :-

On 25th September 2015 an Award was passed in Arbitration proceedings against Anil Ramrao Naik (Respondent No.1) to pay Pinak Bharat & Co. a sum of Rs.3,50,30,150/- together with interest @ 12% p.a. from 22nd February 2005 amounting to approximately Rs.9.39 crores. The Warrant of Sale was issued by this Court on 18th October 2016 in Execution Application No.22 of 2016. The first auction was fixed when no bids were received. This Court on 17th January 2018 passed an order reducing the reserve price from Rs.32.24 crores to Rs.25 crores. There were tenants situated in the property.

4. Learned Single Judge passed an order on 28th February 2018 directing the Sheriff to conduct an auction sale after a gap of 45 days. Since no bids were received the reserve price was reduced to Rs.18 crores. On 3rd May 2018 this Court directed the third auction to take place at a reduced price of Rs.15 crores.

5. The Appellant-Pinak Bharat & Co. was granted leave on 1st August 2018 to participate in the third auction and to submit a bid. This Court on 24th September 2018 confirmed the sale for Rs.15.30 crores in favour of Pinak Bharat and Co. The order dated 30th October 2018 confirms that the entire balance purchase price is paid and after setting off the awarded decree amount of Rs.9,39,21,640/-, a sale is confirmed in favour of Appellant No.2-M/s. Win Win Associates. The Sale Certificate came to be issued in favour of M/s. Win Win Associates on 30th November 2018 by this Court.

6. The said Sale Certificate dated 30th November 2018 was impounded under Section 33 of the Maharashtra Stamp Act, 1958 (hereinafter referred to as "the said Act") by the Sub Registrar, Mumbai City on 24th December 2018 and was sent to the Collector of Stamps for adjudication. The Collector of Stamps passed an interim order on 11th April 2019 and thereafter a final order dated 11th April 2019 thereby holding the market value of the property as Rs. 32.24 crores and the stamp duty payable as Rs.1,61,20,000/-. It was directed that penalty is also payable of Rs.6,44,800/-. The said order

records that there are totally 60 tenants in the said property. The stamp duty is levied as per Article 16 read with Article 25(b) of the said Act.

7. Pinak Bharat & Co. preferred an Appeal under Section 32B of the said Act to the Additional Controller of Stamps challenging the order dated 11th April 2019 read with the corrigendum dated 26th April 2019 and 17th May 2019. The Additional Controller of Stamps passed an order dated 23rd December 2019 condoning the delay of 91 days and holding the Appeal to be maintainable. The final order dated 28th October 2022 was passed dismissing the Appeal thereby confirming the order of the Collector of Stamps as regards the market value of the said property; however the Appeal was partly allowed as regards the penalty that was levied by the Controller of Stamps.

8. The Appellate Authorities based their orders on a valuation report dated 30th November 2017 obtained by this Court pursuant to an order dated 18th October 2016, which valuation report sets out the market value of the property to be Rs.32.24 crores. The learned Single Judge in Commercial Execution Application No.22 of 2016 laid down certain

guidelines as a general practice in respect of the market value for the purposes of stamp. Hence, these Appeals by Pinak Bharat & Co. as well as the Collector of Stamps aggrieved by the relevant portions of the impugned order set out earlier.

9. Mr Khandeparkar, learned counsel for Pinak Bharat & Co. relied upon Rule 4(6) of the Maharashtra Stamp (Determination of True Market Value of Property) Rules, 1995 (hereinafter referred to as “the Rules of 1995”) to contend that as the property in question is sold pursuant to an order dated 24th September 2018 of this Court for Rs.15.30 crores, Rule 4(6) is squarely applicable since the sale is conducted by the High Court through a public auction. It is submitted that the Rules cannot be applied *dehors* the facts of the case, as in the present case the auction was conducted three times and the reserve price was reduced from Rs.25 crores to Rs.18 crores to finally Rs.15 crores, after which the property was finally sold. It is therefore the submission that this clearly has a bearing on the market value of the property in question. It is further submitted that the impugned order passed by the Collector accepts that there are 60 tenants in the said property which would also have a material bearing on the

market value of the property in question.

10. Learned counsel placed reliance on the decision in **Registrar of Assurances and Another vs. ASL Vyapar Private Ltd. and Another**[1] to contend that a sale of property through the Court process is the most transparent manner of obtaining the correct market value of the property and that in respect of such a sale no discretion is available to the adjudicating authority to ascertain whether the property is undervalued while adjudicating the stamp duty. Reliance is then placed on **V. N. Devadoss vs. Chief Revenue Control Officer-cum-Inspector and Others**[2] to demonstrate that when the property is sold in the open market by inviting bids, there is no question of any intention to defraud the revenue nor any question of non-disclosure of the correct price. Reliance is then placed on the decisions of this Court in **Trident Estate Private Limited and Another vs. Office of Joint District Registrar-Class-1 and Others**[3] and **Dr. Prince John Edavazhikal vs. Collector of Stamps and Joint District Registrar and Others**[4] which followed the aforesaid decisions of the Supreme Court while holding that

1 2022 SCC OnLine SC 1554
2 (2009) 7 SCC 438
3 2024 SCC OnLine Bom 3423
4 2024 SCC OnLine Bom 3872

the sale of property through the Court process is the most transparent manner of obtaining the correct market value of the property. It is thus submitted that in the facts of the present case the impugned order passed by the learned Single Judge calls for interference.

11. Ms Jyoti Chavan, learned Additional Government Pleader in the connected Appeal filed by the Collector of Stamps assailed that part of the impugned order passed by the learned Single Judge whereby it is held that the Collector of Stamps cannot determine true market value of a property sold in public auction conducted by Court and the valuation report obtained by the Court should be accepted. It is submitted that the Collector of Stamps was not a party to the Commercial Execution Application, but it is pursuant to the order dated 26th March 2019 passed by the learned Single Judge directing the Collector of Stamps to remain present, that he appeared before the Court. Learned Additional Government Pleader submitted that the impugned order virtually makes the provisions of Section 31 and Article 16 of the Schedule-I of the Act redundant. It is submitted that without laying any foundation for a challenge to the powers of

the Collector under the said Act and Article 16, the learned Single Judge has by laying down general guidelines made the said Article 16 non-est. It is submitted that there was no opportunity granted to the Collector of Stamps to defend the provisions of the said Act. It is submitted that Code and furthermore the Rules framed thereunder provide the manner in which the true market value of the property is to be determined and there is no challenge to the validity of the same. The proviso to sub-rule (6) of Rule 4 of the Rules is not applicable to private property but only in respect of Government, Semi Government or local bodies. It is submitted that Section 3 of the said Act is the charging Section which provides that the stamp duty on instruments will be charged as per Schedule-I. Reliance is then placed on Section 25 and the statement of objects and reasons to submit that a complete mechanism for determining the true market value of the instrument as mentioned in the Schedule-I is provided. It is then submitted that Pinak Bharat & Co. had entered into a private arrangement with the prospective bidder and hence succeeded in curtailing any competition. Learned Additional Government Pleader relied upon the decisions in **Haji Abdul Gani Khan and Another vs. Union of India and Others**[5] and **Dhanraj vs. Vikram Singh and Others**[6] in support of the submission that there should be a specific challenge to the validity of the statute and without the specific pleading a statute cannot be made redundant. Reliance is placed on **Bansal Wire Industries Limited vs. State of Uttar Pradesh and Others**[7] to support the submission that in Fiscal Statutes/Taxing Acts nothing can be read into or implied and the Court cannot make it redundant by reading into it. Our attention is then invited to **Charanjit Lal Chowdhury vs. Union of India and Others**[8] to submit that presumption of constitutionality always is in favour of law. Learned Additional Government Pleader was at pains to distinguish the decisions relied on behalf of Pinak Bharat & Co. as it is her submission that those decisions were rendered in a very different fact situation.

CONSIDERATION

12. Before we proceed to consider the submissions of learned counsel, it would be necessary for us to appreciate the relevant provisions of the Act and the Rules. Section 2

5 (2023) 11 SCC 432
6 2023 SCC OnLine SC 724
7 (2011) 6 SCC 545
8 1950 SCC 833

(na) of the said Act defines "market value" as market value, in relation to any property which is the subject matter of an instrument, means the price which such property would have fetched if sold in open market on the date of execution of such instrument or the consideration stated in the instrument whichever is higher. Section 3 of the said Act is the charging Section which provides that the stamp duty on instruments will be charged as per Schedule-I. Section 25 provides as to how transfers in consideration of debt or subject to future payments etc. are to be charged. As per the proviso, nothing in Section 25 shall apply to any such certificate of sale as is mentioned in Article 16 of Schedule-I.

13. Article 16 of Schedule-I provides for the duty leviable on the certificate of sale granted to the purchaser of any property sold in a public auction by a Civil or Revenue Court. Article 16 reads as under :-

Description of Instrument	**Proper Stamp Duty**
16. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other	The same duty as is leviable on a Conveyance under clause (a), (b) or (c) as the case may be, of Article 25 on the market value of the

Revenue Officer or any other officer empowered by law to sell property by public auction.	property.

14. Thus, the proper stamp duty on a certificate of sale granted to the purchaser of any property sold by public auction by a Civil Court is the same as is leviable on a conveyance under Clause (a), (b) or (c) as the case may be, of Article 25 on the market value of the property. It is therefore significant to note Clause (a), (b) and (c) of Article 25 of Schedule-I. Relevant in the context is Clause (b) of Article 25 which reads thus :-

Description of Instrument	**Proper Stamp Duty**
25(b). if relating to immovable property situated, - (i) within the limits of any Municipal Corporation or any Cantonment area annexed to it or any urban area not mentioned in sub-clause (ii).	5 per cent. of the market value of the property.
(ii) within the limits of any Municipal Council or Nagar Panchayat or Cantonment. area annexed to it, or any rural area within the limits of the Mumbai Metropolitan Region Development Authority, or the Influence Areas as per the annual statement of rates	5 per cent. of the market value of the property.

published under the Bombay Stamp (Determination of True Market Value of Property) Rules, 1995.	
(iii) within the limits of any Grampanchayat area or any such area not mentioned in sub-clause (ii).	4 per cent. of the market value of the property.

15. We may now in the present context consider the relevant provisions of the Rules of 1995. Sub-rule (6) of Rule 4 reads thus :-

"**4. Annual statement of rates of immoveable property**
…..

(6) Every registering officer shall, when the instrument is produced before him for registration, verify in each case the market value of land and buildings, etc., as the case may be, determined in accordance with the above statement and Valuation Guidelines issued from time to time and if he finds the market value as stated in the instrument, less than the market value, determined as above, he shall refer the same to the Collector of the District for determination of the true market value of the property which is the subject matter of the instrument and the proper duty payable thereon:

Provided that, if a property is sold or allotted by Government or Semi Government body or a Government Undertaking or a Local Authority on the basis of the predetermined price, then value determined by said bodies, shall be the true market value of the subject matter property.

Provided further that, where the property is purchased or acquired or taken over by the Government, Semi-Government Body or a Government Undertaking or Local Authority, then the actual value determined as consideration by the said bodies as mentioned in the deed, shall be considered to be the true market value of the subject matter property.

> Provided also that where the market value has been stated in accordance with or more than that prescribed in the statement issued by the Chief Controlling Revenue Authority, but the Registering Officer has reason to believe that the true valuation of the immoveable property cannot be arrived at without having recourse to local enquiry or extraneous evidence he may, before registering such instrument, refer the same to the Collector of the District for determination of true market value of property and the proper duty payable thereon.”

16. The Act and the Rules made thereunder provide for a complete mechanism for determining the true market value of the instrument as mentioned in Schedule-I for the said Act and the procedure for arriving at a true market value. We have already noticed the definition of the term “market value”. The question therefore is, in respect of a certificate of sale pursuant to a public auction by a Civil Court, how is the market value of the property to be determined. Sub-rule (6) of Rule 4 empowers the registering officer to verify in each case the market value of the land and buildings as the case may be which is to be determined on the basis of the procedure prescribed by sub-rule (1) to (5), and if he finds that the market value as stated in the instrument is less than the market value determined in terms of the procedure prescribed by sub-rule (1) to (5), he shall refer the same to the Collector of the District for determination of the true

market value of the property which is the subject matter of the instrument and the proper duty payable thereon.

17. The first proviso to sub-rule (6) of Rule 4 says that, if a property is sold or allotted by Government or Semi Government body or a Government Undertaking or a Local Authority on the basis of the predetermined price, then value determined by said bodies, shall be the true market value of the subject matter property. Article 16 undoubtedly prescribes the stamp duty payable in respect of a certificate of sale granted of a property sold in a public auction by a Civil Court. However, the stamp duty is leviable on the market value of the property. We must bear in mind that the market value is to be determined in respect of a property sold in a public auction by the Court.

18. Let us seek guidance from the decisions of the Supreme Court on the aspect of determination of market value of the property in respect of a public auction by a Civil Court. But before that the facts of this case which have a material bearing on the answer are relevant. At the cost of repetition, we note that price was Rs.32.24 crores as per the valuation report called by the Court. As there were tenants

situated in the property the reserve price was fixed at Rs.25 crores. In the first auction no bids were received and hence the second auction sale was conducted reducing the reserve price to Rs.18 crores. Even the second auction failed and the third auction was scheduled at a reduced price of Rs.15 crores. Pinak Bharat & Co. was granted leave to participate in the third auction and submit a bid. The sale was confirmed for Rs.15.30 crores in favour of the Pinak Bharat & Co.

19. The Supreme Court in *Registrar of Assurances and Another* (supra) held that a public auction carried out through court process/receiver is the most transparent manner of obtaining the correct market value of the property. Their Lordships observed that it is not as if a public auction is carried out just like that. The necessary pre-requisites require fixation of a minimum price and other aspects to be taken care of so that the bidding process is transparent. Even after the bidding process is completed, the court has a right to cancel the bid and such bids are subject to confirmation by the court. Once the court is satisfied that the bid price is the appropriate price on the basis of the material before it and gives its imprimatur to it, any interference by the Registering

Authority on the aspect of price of transaction would be wholly unjustified.

20. Present is a case of repeated public auctions where the property could not be sold for the reserve price fixed and therefore the same had to be reduced from time to time. It is this factual context which will have to be borne in mind. Also relevant is the consideration that there were tenants in the property. The Appellants were permitted to participate in the auction and submit their bid. The Court was at all stages monitoring the auction. The conclusions of the Hon'ble Supreme Court in *Registrar of Assurances and Another* (supra) provide a valuable guidance in resolving the present controversy, reading thus :-

> "24. On the conspectus of the matter, we have not the slightest hesitation in upholding the view that the provision of Section 47A of the Act cannot be said to have any application to a public auction carried out through court process/receiver as that is the most transparent manner of obtaining the correct market value of the property.
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> 25. It is no doubt true that in a court auction, the price obtainable may be slightly less as any bidder has to take care of a scenario where the auction may be challenged which could result in passage of time in obtaining perfection of title, with also the possibility of it being overturned. But then that is a price obtainable as a result of the process by which the property has to be disposed of. We cannot lose sight of the very objective of the introduction of the Section whether under the West Bengal Amendment Act or in any other State, i.e., that in case of under valuation of property, an aspect not

uncommon in our country, where consideration may be passing through two modes – one the declared price and the other undeclared component, the State should not be deprived of the revenue. Such transactions do not reflect the correct price in the document as something more has been paid through a different method. The objective is to take care of such a scenario so that the State revenue is not affected and the price actually obtainable in a free market should be capable of being stamped. If one may say, it is, in fact, a reflection on the manner in which the transfer of an immovable property takes place as the price obtainable in a transparent manner would be different. An auction of a property is possibly one of the most transparent methods by which the property can be sold. Thus, to say that even in a court monitored auction, the Registering Authority would have a say on what is the market price, would amount to the Registering Authority sitting in appeal over the decision of the Court permitting sale at a particular price.

26. It is not as if a public auction is carried out just like that. The necessary pre-requisites require fixation of a minimum price and other aspects to be taken care of so that the bidding process is transparent. Even after the bidding process is completed the court has a right to cancel the bid and such bids are subject to confirmation by the court. Once the court is satisfied that the bid price is the appropriate price on the basis of the material before it and gives its imprimatur to it, any interference by the Registering Authority on the aspect of price of transaction would be wholly unjustified.

27. We may only note that this Court in P. Laxmi Devi case has opined the purpose behind bringing into force Section 47A in the Andhra Pradesh State, i.e., in case of large scale under-valuation of the real value of property in the sale deed, the Government is defrauded of a proper revenue. It was to take care of the absence of any provision in the original Stamp Act empowering revenue authority to make an inquiry about the value of the conveyed property, that the Amendment was brought forth so that the revenue did not suffer. The judgment in V.N. Devadoss case albeit in respect of Amendment in Tamil Nadu, opined that it was not a routine procedure to be followed in respect of each and every document of conveyance presented for registration without any evidence to show a lack of bona fides of the parties. There has to be a willful under-valuation of the subject of transfer with fraudulent intention to evade payment of proper stamp duty.

28. We do not accept the contention that the mere wordings of these different provisions in any way take away the fundamental intent with which the provision was brought into force and specifies so in the same manner though albeit in a different language. In a court auction following its own procedure, the Registering Officer cannot have any reason to believe that the market value of the property was not duly set forth – a pre-requisite for a Registering Authority to exercise its power under the said Section.

29. If we see in the factual context of the two scenarios before us in respect of the two cases, the telling aspect in a partition case was the existence of 98 tenants on a land at a monthly rent of Rs.8,000 for the entire land and 80 vendors occupying the land for hawking business during day time. It is trite to say that the mere existence of tenancy results in a considerable decline in the market value of the property as they may have their statutory rights and even otherwise, the purchaser would be acquiring the property hardly in an ideal scenario and would be left with the burden to take legal processes for the eviction. In such a scenario, there is actually a great depression in the market value of the property as even if a fair transaction without an auction takes place with full reflection of price, the transacted value would be half or less of a vacant property. The tenancy aspect can hardly be said to be an aspect which could be ignored in the determination of the price.

30. In the company matter, repeated auctions were held and it is in the negotiated bid that the higher price was obtained. It was court monitored. There would be no occasion for the court to accept the bid if it was not satisfied with the process and the valuation. A correct value of a property is the one where there is a purchaser and a seller ad idem on the price (the actual price). The market value is, thus, the value which the highest bidder is willing to pay in the facts and prevailing circumstances and not a notional price.

31. We find hardly any rational in adopting the submissions on behalf of the appellant. The provisions are not dissimilar in the different enactments in its fundamentals; the "reason to believe" of a Registering Officer has to be based on ground realities and not some whimsical determination; the Registering Authority cannot be permitted to doubt the liquidation proceedings as having some superior knowledge when it is a court monitored process where the court would take care of

> aspects such as cartelization; the Registering Authority can hardly be said to be the only authority with knowledge of the subject to the exclusion of the court; the independent determination by a Registering Officer would not apply to a court sale but to a private transaction; the Stamp Act being a fiscal statute, while being interpreted strictly and literally would not imply some kind of absolute power.
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> 32. The decision of this Court in V.N. Devadoss case can hardly be said to be per incuriam. No doubt a court monitored auction is a forced sale, but then it has a competitive element of a public auction to realize the best possible price. In many court cases, this is the process followed by the court to get the best obtainable price taking due precaution.
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> 33. We are, thus, of the view that this reference is required to be answered by opining that in case of a public auction monitored by the court, the discretion would not be available to the Registering Authority under Section 47A of the Act.

21. The observations of the Hon'ble Supreme Court squarely apply in the present facts. We may also note with profit, the Division Bench of this Court in **Spectrum Constructions and Developers LLP vs. State of Maharashtra, through Joint District Registrar**[9] held that there is no question of stamp authorities independently reassessing the market value of the land and building. This Court was concerned with a fact situation where the Petitioner therein paid full stamp duty on the consideration accepted by SEBI. The sale was overseen by a Supreme Court constituted committee under the Chairmanship of His Lordship Mr Justice

9 2022 SCC OnLine Bom 3693

R. M. Lodha, former Chief Justice of India. The reserve price was fixed by the Lodha Committee. The Petitioner's bid was much higher than the reserve price. The stamp duty was paid on the bid amount. A demand was made by the Registering Authority for payment of deficit stamp duty and penalty, justifying the market value on the location of the land. In this context the Division Bench of this Court in paragraphs 6 and 7 held thus :-

> "6. We are in agreement with Mr. Vashi, learned Senior Counsel for the Petitioners, that in the facts and circumstances of the case, there is no question of the stamp authorities independently reassessing the market value of the land and building. The issue at law is covered by the decision in *Pinak Bharat and Co. v. Anil Ramrao Naik* delivered by one of us sitting singly (GS Patel, J). This points out that where the land is sold or allotted by the government or a semi-government body, government undertaking or a local authority on the basis of predetermined price, then the value as determined by such body is to be taken as the true market value of the subject matter property.
>
> 7. There is no doubt in this case that the market value was the bid of the Petitioner as accepted by the Justice Lodha Committee and that the sale was confirmed at the amount of the Petitioner's bid by SEBI. In this view of the matter, there is no question of the stamp authorities determining any other value. The only value to be accepted is Rs. 1,66,57,920/-. The stamp duty on this is Rs.9,99,475/-. There is no question therefore of allowing the stamp authorities to demand any other amount. There is certainly no question of a penalty."

22. In *Spectrum Constructions and Developers LLP* (supra), Their Lordships referred to the decision in Pinak

Bharat and Co. vs. Anil Ramrao Naik which is under challenge in the present Appeal. We are in a complete agreement with what has been held by the Division Bench in *Spectrum Constructions and Developers LLP* (supra) as in our opinion this decision is in line with what the Supreme Court has said *Registrar of Assurances and Another* (supra). We do not propose to multiply the authorities by referring to each of the decisions referred to by the Petitioner. Suffice it to observe that this Court in *Trident Estate Private Limited and Another* (supra) has after extensively referring to the decision of the Hon'ble Supreme Court in *Registrar of Assurances and Another* (supra) and *Spectrum Constructions and Developers LLP* (supra) held that in respect of a sale which was confirmed at a price bid by the Petitioner, and which was above the reserve price, there was no question of the stamp authorities determining the market value. The price bid above the reserve price would be taken as the market value.

23. According to us, due deference and sanctity has to be attached to a Court monitored auction as such an auction of a property is possibly one of the most transparent method by which the property can be sold. In the facts of the present

case, we are of the opinion that it was not permissible for the Registering Authority to sit in appeal over the one fixed by the Court. Such a course in no manner has the effect of making the powers of the Registering Authority under the Act or the Rules redundant as in all other cases, the authority can always determine the market value in accordance with the provisions of the Act and the Rules.

24. The property ultimately was sold for a price higher than the reserve price on which the stamp duty is payable. Thus, we are of the opinion that the value at which the property is ultimately sold above the reserve price must serve as a market value for the purpose of determining the stamp duty payable upon the said sale.

25. The submission of Ms Jyoti Chavan, learned Additional Government Pleader that the decision in *Registrar of Assurances and Another* (supra) is distinguishable merely because Article 16 or Article 25 of Schedule-I was not the subject matter of consideration before the Hon'ble Supreme Court, in our opinion, will not make any material difference having regard to the authoritative pronouncement of the Supreme Court in respect of an auction monitored by the

Court. The decisions relied by Ms Chavan lay down well settled principles of law.

26. Article 16 is a provision for levy of stamp duty on the market value of the property sold in a public auction by the Court. It is in such cases that for determination of the market value the observations of the Hon'ble Supreme Court in *Registrar of Assurances and Another* (supra) are authoritative. As indicated earlier, *Spectrum Constructions and Developers LLP* (supra) though has referred to the decision in Pinak Bharat & Co., has in fact followed the law laid down in *Registrar of Assurances and Another* (supra) and in our considered opinion, rightly so.

27. Resultantly, the Commercial Appeal (L) No.28626 of 2023 of Pinak Bharat & Co. and another is allowed. The impugned order dated 27th March 2019 in Commercial Execution Application No.22 of 2016 is set aside.

28. We make it clear that having set aside the impugned order, the general practice to be followed prescribed by the learned Single Judge in paragraph 23 is rendered inconsequential. In all cases, other than the one covered by

this decision, the Registering Officer undoubtedly will have the power to verify the market value of land and building in accordance with the said Act and the Rules. Commercial Appeal No.14 of 2024 filed by the Collector of Stamps, Mumbai City is disposed of in the light of the aforesaid observations. No order as to costs.

29. The Interim Application (L) No.1988 of 2025 is also disposed of.

(M. S. KARNIK, J.) **(CHIEF JUSTICE)**