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

\+ CONT.CAS(C) 808/2017

AMIT GUPTA & ANR .....Petitioner

Through: Mr. Nikhil Rohatgi, Mr. Amit Gupta and Mr. Kanishk Sachdeva, Advocates

versus

MANISHA SAXENA & ANR .....Respondent

Through: Mr. Anuj Aggarwal, ASC, GNCTD with Mr. Siddhant Dutt and Ms. Ishita Pandey, Advocates for R-1 & R-2

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

<u>O R D E R</u>

% **07.02.2025**

1. Petitioner seeks initiation of contempt proceedings for wilful disobedience of the orders passed by learned Division Bench of this Court on 23.12.2015 in W.P. (C) No. 3591/2014.

2. The petitioners, in the aforesaid writ petition, which was a Public Interest Litigation, had sought following reliefs: -

> *(i) for declaration that the policy/practice of construing the basements of residential properties at par with the other floors for the purpose of evaluating the applicable stamp duty, under the (a) Indian Stamp Act, 1899; (b) Delhi Stamp (Prevention of Under Valuation of Instruments) Rules, 2007; and, (c) the Notification dated 4th December, 2012, is violative of Articles 14 & 19 of the Constitution of India;*
> *(ii) for a direction to the respondent Government of National Capital Territory of Delhi (GNCTD) to prescribe for equitable stamp duty charges applicable in case of sale/purchase of basements in residential properties which are otherwise purely meant for parking or storage purposes; and,*
> *(iii) for a direction to the respondent GNCTD to modify the existing method for calculating the applicable stamp duty in case of sale of a floor of a residential property by taking into consideration the maximum*

permissible plinth area instead of the existing plinth area.

3. The aforesaid writ petition was disposed while, *inter alia*, directing as under: -

> *"22. W.P.(C) No.3591/2014 and W.P.(C) No.10328/2015 are disposed of by directing/clarifying that notwithstanding anything contained in any order/circular of the respondent GNCTD including those impugned in these petitions, in the event of the consideration mentioned in the instrument/transfer document presented for registration being less than the valuation as per the prescribed circle rates, the Registrar /Sub Registrar entrusted with the responsibility of registration of the documents, shall,*
>
> *A) notify the parties presenting the instrument/document for registration that the consideration set forth in the instrument and the stamp duty computed on the basis thereof is less than the valuation as per the circle rates;*
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> *B) give them an opportunity to amend the document/instrument, to bring the valuation thereof for the purpose of payment of stamp duty, in consonance with the circle rates and make up deficiency in stamp duty;*
>
> *C) if parties do not amend/revise the valuation and do not pay the deficient stamp duty/transfer duty in terms of the circle rates, follow the procedure as prescribed in Section 47-A supra i.e. register the document/instrument (instead of returning the same to the parties) with endorsement of registration and forward the same to the Collector of Stamps for determination of value or consideration as the case may be and the proper duty payable thereon; and*
>
> *D) the Collector thereafter shall proceed in accordance with law including Section 27 of the Stamp Act.*
>
> *23. We dispose of W.P.(C) No.5975/2013 by further clarifying that the parties presenting instruments/transfer document of basements of residential properties for registration, if of a consideration lower than the consideration /valuation in accordance with the circle rates, shall upon their instruments/transfer documents after registration, under Section 47-A supra being referred to the Collector, be entitled to satisfy the Collector of the consideration/valuation of the subject basement in residential properties being lower than the consideration applicable to instruments/transfer documents of other floors in the same property and the Collector shall proceed to determine the same.*
>
> *24. No other arguments/prayer/plea in the petitions was pressed during*

the hearing on 4th December, 2015.

25. The petitions are disposed of in terms above."

4. The grievance in the present contempt petition is to the effect that whenever any matter is referred to the concerned Collector for inquiry under Section 47-A of Indian Stamp Act, 1899, as applicable to State of Delhi, the Collector does not conduct inquiry in the prescribed manner and at times, the parties are rather coerced to pay stamp as per circle rate.

5. It is thus contended that there is violation of abovesaid order.

6. Needless to say, if enquiry is not conducted as per the prescribed procedure, the aggrieved party has a substantive right to challenge the same. Learned counsel for petitioner, in all fairness, submits that one such party has already challenged such order of Collector by filing an Appeal in terms of the Indian Stamp Act, 1899 and such Appeal is pending adjudication.

7. Learned counsel for respondents submits that the department has already taken note of the aforesaid directions and, therefore, only communication was sent to the petitioner on 04.06.2016. Learned counsel for respondents also states that Registering Authority and the Collector of Stamps are, scrupulously, following the aforesaid directions.

8. During course of the hearing, learned counsel for respondents submitted that department shall issue a specific circular, even if already issued, highlighting the aforesaid specific directions given by this Court and also about the provision in question i.e. Section 47-A of Indian Stamp Act, 1899 for sensitizing the Concerned Authorities. He submits that such circular shall be issued within four weeks from today.

9. Such statement is taken in record.

10. Such suggestion is duly appreciated by the petitioners even, who feel that if such directions are brought to the notice of all concerned in appropriate manner, the concerned authorities, being made aware, shall act in compliance thereto, resulting in minimal chances of there being any further contravention.

11. In view of the above, learned counsel for petitioner, at the moment, does not press his present contempt petition.

12. Present petition is accordingly disposed of as not pressed.

MANOJ JAIN, J

FEBRUARY 7, 2025/dr