

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 14374 of 2021

With

CAN 1 of 2025

With

CAN 2 of 2025

M/s. P. Sen Technical Services Private
Limited & Anr.

Vs.

State of West Bengal & Ors.

Dr. S. Muralidhar, Sr. Adv.

Mr. Rishad Medora

Mr. Debmalya Ghosal

Mr. S.N. Dutt

Ms. Bhumika Popli

Mr. Souvik Ghosh

....For the petitioners.

Mr. Amal Kumar Sen, Ld. AAG.

Mr. Nilotpall Chatterjee

Mr. Amritlal Chatterjee

....For the State.

Hearing Concluded On : 10.03.2026

Judgment on : 18.03.2026

Krishna Rao, J.:

1. The petitioners have filed the present writ petition challenging the order passed by the Collector and Deputy Inspector General of Registration, Range-I, Alipore, Kolkata dated 22nd July, 2021, wherein the stamp duty for registration of sale deed as per market value of the apartment/unit along with one open car parking space is determined at Rs. 1,45,14,836/-.
2. The petitioners have purchased two office spaces at the 1st Floor, 113, Park Street, Kolkata- 700016 admeasuring 2288 sq.ft super built up area and admeasuring 1712 sq. ft. super built up area respectively from one Bejon Behary Mullick through two separate registered sale deeds. On completion of all formalities, the sale deed executed between the parties was presented in the office of the respondent no. 5 on 9th September, 2003 for registration. On receipt of the two deeds, the office of the respondent no.5 issued two separate IGR Receipts being R 226214 and R 226213 dated 9th September, 2003 by recording deed Nos. 06798 and 06799 respectively.
3. Even after the expiry of one month from the date of presentation of deeds, the office of the respondent no.5 failed to hand over deeds to the

petitioners, accordingly, the petitioners time to time approached the authority for handing over the deeds to the petitioners but the same was not made available to the petitioners.

4. After the substantial period of time when the deed was not made available to the petitioners, the petitioners approached the authorities and it was informed to the petitioners that the original sale deeds are not traceable and once it traced out, the same will be handed over to the petitioners.
5. In spite of several requests when the deed was not handed over to the petitioners, the petitioners approached the higher authorities. Thereafter, the office of the respondent authorities informed to the petitioners that due to inadvertence, the said deeds were not uploaded by scanning in its regular course of business and the same cannot be scanned and inserted in the requisite position by the respondents.
6. The petitioners approached the respondent no.5 for release of the said deeds sometimes in the month of March, 2021 but the respondent no.5 insisted upon the petitioners to pay stamp duty on the prevailing current market rate and generated fresh queries and demanded a sum of Rs. 18,98,287/- and Rs. 25,36,955/- towards stamp duty and a sum of Rs. 2,09,751/- and Rs. 2,80,327/- towards registration fees for the area of 1712 and 2282 sq.ft. respectively.
7. As the petitioners were not agreeable to pay the stamp duty as per present market values as assessed by the respondent no.5, the

respondent no.3 initiated proceeding under sub-section 5 of Section 47A of the Indian Stamp Act, 1899 and issued notice to the petitioners on 22nd July, 2021 and the respondent no.3 has passed the impugned order.

- 8.** Dr. S. Muralidhar, Learned Senior Advocate representing the petitioners submits that the petitioners have submitted two sale deeds on 9th September, 2003 and on receipt of the same, IGR numbers were provided and the authorities ought to have register the said deeds within a period of one month but inspite of several requests, the deeds were not registered.
- 9.** Dr. Muralidhar submits that it is the admitted case of the respondents that the deeds were not traceable due to which the same cannot be registered, thus the petitioners cannot be made liable to pay stamp duty as per present market value. He submits that the respondents have issued notice on 9th July, 2021 under sub-section 5 of Section 47A of the Indian Stamp Act, 1899, only upon repeated pursuance and reminders by the petitioners after the period of 18 years from the date of submission and execution of deeds, is illegal and arbitrary action on the part of the respondents.
- 10.** Dr. Muralidhar submits that at the time of execution and presentation of the two deeds in the year 2003, the petitioners have duly paid the stamp duty and there was no deficit stamp duty remaining to be paid by the petitioners. He submits that when the matter was taken up for

hearing by this Court on 6th August, 2025, the Learned Advocate representing the respondents submits on instructions submits that the sale deeds since have been located, which admits that the sale deeds were not traceable.

11. Dr. Muralidhar submits that the petitioners have submitted two sale deeds on 9th September, 2003 and duly paid the required stamp duty but the respondents have not registered the deed as it was not traceable. The respondents have traced out the deeds only in the year 2021 i.e. after the period of 18 years, now the respondents cannot demand for payment of stamp duty as per prevalent market rate. In support of his case, he has relied upon the judgment in the case of **Santoshkumar Shivgonda Patil and Others Vs. Balasaheb Tukaram Shevale and Others** reported in **(2009) 9 SCC 352** and submits that if a statute does not prescribe the time-limit for exercise of revisional power, it does not mean that such power can be exercised at any point of time; rather it should be exercised within a reasonable time. He submits that one settled thing cannot be unsettled after a long period of time where the legislature does not provide for any length of time within which the power of revision is to be exercised by the authority, *suo motu* or otherwise, it is plain that exercise of such power within reasonable time therein.

12. Dr. Muralidhar further relied upon the judgment in the case of **Government of India Vs. Cital Fine Pharmaceuticals, Madras and Others** reported in **(1989) 3 SCC 483** and submits that in the

absence of any period of limitation it is settled that every authority is to exercise the power within a reasonable period.

- 13.** Mr. Amal Kumar Sen, Learned AAG, submits that providing IGR number itself cannot be said that the document is registered. He submits that the petitioners have presented documents for registration and accordingly IGR numbers, Serial Numbers and details of amount paid for stamp duty have been provided to the petitioners. He submits that the petitioners have not shown any piece of documents that after presentation of the deeds have persuaded with the respondents for its registration. He submits that the petitioners have presented deeds on 9th September, 2003 and only in the year 2021, the petitioners have approached the respondents for registration of Deeds and accordingly the notice under Section 47A of the Indian Stamp Act, 1899, was served upon the petitioners to access the stamp duty as per the prevalent market value.
- 14.** Mr. Sen submits that the respondent no.3 has taken into consideration of the deeds and the stamp duty paid by the petitioners and also ascertained the location of the property involved in the deeds and come to the conclusion that the rate fixed by the Registering Authority at the time of presentation of deeds is not at all at par with the prevailing rate at that point of time when the deeds were presented. He submits that the respondent no.3 further found that the procedure adopted by the Registering Authority for the valuation of the property is dehors the principles for determination of market value.

- 15.** Mr. Sen submits that the respondent no.3 taking into account of all the relevant factors has accessed the market value afresh for the year 2003 including car parking and come to the conclusion that total value of the apartment/unit along with one open space for car parking is Rs. 1,45,14,836/- and for the another deed the value is Rs. 1,09,85,684/-.
- 16.** Mr. Sen submits that the writ petition filed by the petitioners is not maintainable as the impugned order is an appealable order but instead of filing an appeal, the petitioners have filed the present writ petition.
- 17.** Mr. Sen submits that the deed was never registered and thus when the deed was produced before the respondents, the respondents came to know that the valuation is not properly accessed and accordingly notice under Sub-Section 5 of Section 47A was issued to the petitioner and passed the impugned order. He submits that there is no time limit was prescribed to ascertain the market value. He submits that after presentation of two deeds, the petitioner has not taken any steps for registration of the said deeds and only in the year 2021, the petitioners have made representation for registration of sale deeds and when the deeds were produced before the respondents, it was found that the stamp duty was not properly accessed. He submits that the judgments relied by the petitioners is not applicable in the facts and circumstances of the present case.
- 18.** There is no dispute that the petitioners have presented two deeds of conveyance on 9th September, 2003 for registration after payment of

stamp duty, IGR and serial number was also provided. At the time of presentation of two conveyance deeds, the petitioners have paid stamp duty with respect of one deed to the tune of Rs. 1,71,200/- and for the another deed an amount of Rs. 2,28,800/-.

19. The first issue whether the petitioners have not approached the registering authorities after presentation of the deeds or the authorities has not registered the same. The petitioners have made specific averments that the petitioners have made several request for registration of the deeds after presentation but one or the other reasons inspite of assurance the deeds were not registered and in the year 2021 when petitioners have made written request for registration and the registering authority has started proceeding by issuing notice under Sub-Section 5 of Section 47A of the Stamp Act, 1899.
20. In the affidavit-in-opposition, the respondents have admitted that two documents were presented for registration at the office of the registering authorities after formal completion and the same was admitted to the registration and serial numbers were generated but *“the registration of the documents was kept in abeyance on the belief that the facts and circumstances affecting the chargeability of such instrument with duty had not been truly set forth therein”*. It is also stated in their affidavit-in-opposition that *“the parties to the documents did not turn up to pay the deficit amount of government dues for completion of their registration”*.

- 21.** From the said averments, it is clear that the authorities have not registered the deeds for want of deficit stamp duty. The stand taken by the respondents is not digestible: (i) the respondents have not placed any documents to show that the deficit stamp duty was conveyed to the petitioners, (ii) the respondent no.3 has accessed the stamped duty only on 22nd July, 2021, (iii) in the impugned order, it is also mentioned that *“now going through the recital of the order of the assessment done by the concerned Registering Authority (RA), it is found that the rate fixed by the Registering Authority (RA) is not at all at par with the rate prevailing thereon at the time when the instruments were presented for registration in the year 2003.”* and (iv) in the order dated 6th August, 2025, passed in the present proceeding, the Learned Counsel for the respondents submits *“upon instructions submits that the sale deeds have since been located”*.
- 22.** This Court finds that the submissions made by the Counsel for the respondents are contrary to the case made out in the affidavit-in-opposition. The respondents have not shown that any notice have been issued prior to 9th July, 2021, regarding assessment of stamp duty and market value. The respondents have issued notice only on 9th July, 2021 for assessment of market value, thus it can be safely held that there is no delay on the part of the petitioners.
- 23.** Now, the issue is whether the proceeding initiated by the respondents by issuing a notice under Sub-Section 5 of Section 47A of the Indian

Stamp Act, 1899 and reassessing stamp duty after the period of 18 years is in accordance with law or not.

24. Section 47A of the Indian Stamp Act, 1899 as amended in West Bengal

Amendment reads as follows:

“47A. Instruments of conveyance, etc., under-valued, how to be dealt with – (1) Where the registering officer appointed under the Registration Act, 1908 (16 of 1908), has, while registering any instrument of –

- (a) agreement or memorandum of any agreement relating to a sale or lease-cum-sale of immovable property,
 - (b) conveyance,
 - (c) exchange of property,
 - (d) gift,
 - (e) partition,
 - (f) power-of-attorney-
 - (i) when given for consideration to sell any immovable property, or
 - (ii) in such other cases referred to in article 48 of Schedule IA, where proper stamp duty is payable on the basis of market value,
 - (g) settlement,
 - (h) transfer of lease by way of assignment,
- reason to believe that the market value of the property which is the subject-matter of any such instrument has not been truly set forth in the instrument presented for registration, he may, after receiving such instrument, ascertain the market value of the property which is the subject matter of such instrument in the manner prescribed and compute the proper stamp duty chargeable on the market value so ascertained and thereafter he shall, notwithstanding anything to the contrary contained in the Registration Act, 1908, in so far as it relates to registration, keep registration of such instrument in abeyance till the condition referred to in sub-section (2) or subsection (7), as the case may be, is fulfilled by the concerned person.

(2) Where the market value of the property which is the subject-matter of an instrument has

been ascertained and the proper duty chargeable thereon has been computed under sub-section (1), the registering officer shall, in the manner prescribed, send to the concerned person a notice calling upon him to make payment of the deficit amount of stamp duty within such time as may be prescribed, and if such person makes payment of such deficit amount of stamp duty in the prescribed manner, the registering officer shall register the instrument.

(3) *Where the concerned person does not make payment of the stamp duty as required under subsection (2) within the time specified in the notice issued under that sub-section, the registering authority shall refer the matter to such authority and in such manner as may be prescribed for determination of the market value of the property which is the subject-matter of such instrument and the proper stamp duty payable thereon:*

Provided that if the concerned person, before receipt of any communication from such authority intimating him the market value of the property which is the subject-matter of the instrument and the proper stamp duty payable thereon determined by such authority, makes payment of the deficit amount of stamp duty as ascertained by the registering officer, such registering officer shall accept such payment, register the instrument and intimate the matter to such authority in the manner prescribed.

(4) *After the registering officer issues a notice under sub-section (2) in respect of any instrument referred to in clause (b), clause (c), clause (d), clause (e) or clause (g) of subsection (1), which has been presented before him for registration prior to the coming into force of the Indian Stamp (West Bengal Amendment) Act, 1998, and if the concerned person makes payment of the deficit amount of stamp duty within the time specified in such notice, he shall register such instrument:*

Provided that where such instrument has been so registered under this sub-section, any reference that has been made to the authority referred to in sub-section (3) in respect of determination of the market value of the property which is the subject-matter of the instrument shall be deemed to have

been withdrawn and the registering officer shall intimate the matter to such authority in such manner as may be prescribed.

(5) on receipt of a reference under sub-section (3), the authority specified under that subsection shall, after giving the parties concerned in respect of the instrument referred to in sub-section (1) a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed, determine the market value of the property which is the subject-matter of the instrument and the proper stamp duty payable thereon, and shall thereafter issue a notice in the manner prescribed directing the concerned person to make payment of such deficit amount of stamp duty within such time as may be prescribed.

*(6) * * * **

(7) Where the concerned person makes payment, in the manner prescribed, of the deficit amount of stamp duty determined under sub-section (5) [* *], the registering officer shall, upon furnishing by the concerned person a copy of receipted challan or bank draft in proof of such payment, register the instrument within such time as may be prescribed.*

(8) (a) The authority referred to in sub-section (3) may, on receipt of any information or otherwise, suo motu within five years from the date of registration of any instrument, where such instrument was registered on the basis of the market value which was set forth in the instrument or which was ascertained by the registering officer referred to in sub-section (1), call for and examine any such instrument and any other document relating thereto for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject-matter of such instrument and which was set forth in the instrument or which was ascertained under subsection (2) and the stamp duty payable thereon

(b) If, after such examination, the authority referred to in clause (a) has reasons to believe that the market value of the property which is the subject-matter of such instrument has not been truly set forth in the instrument or correctly

ascertained under sub-section (2), he may, after giving the parties concerned in the instrument a reasonable opportunity of being heard, determine the market value of the property which is the subject-matter of such instrument and the amount of stamp duty chargeable thereon in the manner referred to in sub-section (5), and the difference in the amount of stamp duty, if any, between the stamp duty so determined by him and the stamp duty already paid by the concerned person shall be required to be paid by him in the prescribed manner:

Provided that nothing in this shall apply to –

(a) any instrument referred to in clause (b), clause (c), clause (d), clause (e), or clause (g) or clause (ga) of sub-section (1) registered before the 31st day of January, 1994, or

(b) any instrument referred to in clause (a), clause (f), or clause (h) of sub-section (1) registered before the coming into force of the Indian Stamp (West Bengal Amendment) Act, 1998.

(9) *Notwithstanding anything contained elsewhere in this section or section 47B, no interest shall be payable in such cases, under such circumstances, and subject to such conditions, if any, as may be prescribed.*

Explanation. - For the purposes of this section, section 47B and section 47C, “concerned person” shall mean the person who is liable to bear the stamp duty under section 29.”

- 25.** The respondent no.5 raised fresh queries in the month of March, 2021 demanding Rs. 18,98,287/- and Rs. 25,36,955/- towards stamp duty and Rs. 2,09,751/- and Rs. 2,80,327/- being registration charges for the land admeasuring 1712 sq.ft. and 2282 sq.ft. respectively. On 19th April, 2021, the respondent no.5 has given an offer to the petitioners to pay Rs. 15,12,971/- and Rs. 11,32,084/- as stamp duty and Rs.

2,16,139/- and Rs. 1,61,726/- being registration fees. The petitioners requested the respondents to consider the market value of the premises in question during the year 2003 and to release the deeds. The respondent no. 5 has not accepted the request of the petitioners and accordingly, the respondent no.3 issued notice under sub-section 5 of Section 47A on 9th July, 2021, directing the petitioners to be present on 15th July, 2021.

26. The respondent no.3 while assessing the market value in the year 2021 has taken into consideration that the property is located by the side of near about 20' wide metalled road and leads ultimately for not more than 40 mtr. to open the door up to the Building Complex. The property is a part of the said complex on the first floor. The respondent no. 3 has come to the finding that the rate fixed by the Registering Authority is not at all at par with the rate prevailing thereon at the time when the deed was presented. In the impugned order, it is mentioned that *"the separate sheet incorporating the data from MVMR is annexed herewith for ready reference"* but no such reference is annexed with the order nor the respondents have disclosed the same in their affidavit. The respondent no.3 while assessing the market value of the property has taken into consideration of 10% hike in the previous rate but has not taken into consideration of depreciation.

27. The petitioners have purchased 940 sq. ft. of super built up area on the 1st floor on the Southern side of the building situated at the premises 113, Park Street, Kolkata which is also the office area in the year 2004

and a conveyance deed was executed in the year 2004 and was registered on 8th May, 2013 wherein the market value of the property was assessed at Rs. 37,60,000/-. The said property is the part of the property of the present sale deeds of the same premises.

- 28.** In the case of **Santoshkumar Shivgonda Patil (supra)**, the Hon'ble Supreme Court held that:

“11. It seems to be fairly settled that if a statute does not prescribe the time-limit for exercise of revisional power, it does not mean that such power can be exercised at any time; rather it should be exercised within a reasonable time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. Where the legislature does not provide for any length of time within which the power of revision is to be exercised by the authority, suo motu or otherwise, it is plain that exercise of such power within reasonable time is inherent therein.”

- 29.** In the case of **Union of India and Another Vs. CITI Bank, N.A.** reported in **(2022) 19 SCC 188**, the Hon'ble Supreme Court held that :

“19. It is a settled proposition of law that when the proceedings are required to be initiated within a particular period provided under the statute, the same are required to be initiated within the said period. However, where no such period has been provided in the statute, the authorities are required to initiate the said proceeding within a reasonable period. No doubt that what would be a reasonable period would depend upon the facts and circumstances of each case.”

- 30.** The petitioners have presented the two deeds on 9th September, 2003 for registration and the same were admitted, IGR number was provided, serial numbers were generated and appropriate stamp duty was also

paid but the Registering Authority failed to register the same. After the period of 18 years i.e. in the year 2021, the respondent authorities insisted the petitioners to pay the prevailing current market rate of the property and have generated new queries. When the petitioners have protested the same, the respondent no.3 has issued notice under Sub-Section 5 of Section 47A of the Indian Stamp Act, 1899. The respondents have slept over the matter about 18 years and in the meantime another conveyance deed with respect to other portion of the same building/ premises was registered in the year 2004 as per the market value prevailing at the relevant point of time. No time limit is prescribed in Sub-Section 5 of Section 47A of the Act. In Sub-Section 8 of Section 47A, five years' time limit is prescribed for correctness of the market value of the property from the date of registration of the instrument. The notice is issued by the respondent no. 3 is under sub-section 5 or sub-section 8 of Section 47A. Though in the present case, deed was not registered but the same was admitted, serial number was generated and IGR number was provided. In the affidavit-in-opposition, it is the case of the respondents that the petitioners have not come forward for payment of deficit stamp duty but the authorities have not shown any documents that prior to 9th July, 2021, any notice is issued to the petitioner for assessment of market value.

- 31.** Considering the above, this Court finds the assessment made by the respondent no.3 after the period of 18 years from the date for admission of deeds for registration is barred by limitation.

32. As regard to the issue of maintainability of the writ petition, Section 47B is available, if any, order is passed under Sub-Section 5 or Sub-Section 8 of Section 47A by determining stamp duty. In the present case the respondent no.3 has invoked the provisions of sub-section 5 or sub-section 8 of Section 47A. If the respondents admitted that the order passed under Sub-Section 8 of Section 47A, the order passed by the respondent no.3 is barred by limitation. The respondent no.3 has determined the market value of the property after the period of 18 years from the date of admission of the deeds and the petitioners have filed the writ petition on the ground that the respondent no.3 cannot ascertain the market value after the period of 18 years from the date of presentation of the deeds and the respondents have admitted that the deeds have been presented in the year 2003 itself. The respondent no.3 has assessed the market value after the period of 18 years without having jurisdiction.

33. In the case of ***Rikhab Chand Jain Vs. Union of India & Others*** reported in ***(2025) SCC OnLine SC 2510***, the Hon'ble Supreme Court held that:

“7. Decisions of this court are legion from which guidance can aptly be drawn as to when a writ petition ought to be entertained despite the party approaching the High Court not exhausting the alternative statutory remedy available to him/her/it. Insistence by the courts—both this court and the High Courts—of exhaustion of a statutory remedy provided by an enactment before invoking the writ jurisdiction of a High Court under article 226 of the Constitution can be traced to one of several self-imposed restrictions, laid down by

judicial precedents of this court. Unless, of course, any of the exceptions (challenge to an act/order grounded on (i) breach of a fundamental right; (ii) violation of natural justice principles; (iii) lack of jurisdiction; and (iv) unconstitutionality of a statute) is satisfied, that a writ court may refuse to entertain a writ petition does not admit of any doubt. This court relying on a host of decisions including State of U.P. v. Mohammad Nooh, reiterated that availability of an alternative statutory remedy does not oust the jurisdiction of a writ court. It was also explained how “entertainability of a writ petition” is a concept distinct from the concept of “maintainability of a writ petition”.

15. In our considered opinion, the appellant having had a remedy before the High Court in a separate jurisdiction which was equally efficacious, he indulged in the (mis) adventure of invoking its writ jurisdiction which was rightly not entertained.”

- 34.** In the case of **Radha Krishan Industries Vs. State of Himachal Pradesh and Others** reported in **(2021) 6 SCC 771**, the Hon’ble Supreme Court held that:

“27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.”

- 35.** In the present case, the respondent no.3 has invoked the provision of Sub-Section 5 of Section 47A after the period of 18 years though the petitioner has presented deeds on 9th September, 2003 and the same was admitted, serial numbers were generated and IGR numbers were provided. For 18 years, the respondents have not raised any objection

to the stamp duty paid by the petitioners. It is also the fact that sale deed of part of the property of the same premises was registered in the year 2004 as per the market value assessed at the relevant point of time.

- 36.** Considering the above, this Court did not find any substance with regard to maintainability of the writ application raised by the respondents.
- 37.** In view of the above, the impugned orders dated 22nd July, 2021, passed by the respondent no.3 are set aside and quashed.
- 38.** In terms of the order passed by this Court dated 6th August, 2025, the petitioners have paid the stamp duty as specified in the assessment order dated 22nd July, 2021, without prejudiced to the rights and contentions of the petitioners, thus the respondents are directed to refund the stamp duty paid by the petitioners in terms of the impugned order dated 22nd July, 2021, within a period of four weeks from the date of receipt of this order.
- 39. WPA No. 14374 of 2021 is disposed of. CAN No. 1 of 2025 and CAN No. 2 of 2025 are also disposed of.**

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)