
(2014) 06 MP CK 0189
In the Madhya Pradesh High Court
Case No : Writ Petition No. 6830/2012

Alok Raghuvanshi

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 27-06-2014

Acts Referred:

Constitution of India, 1950 — Article 227
Stamp Act, 1899 — Section 33

Citation : (2014) 06 MP CK 0189

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : S.P. Shukla, Advocate for the Appellant; Raghvendra Dixit, Government Advocate and Pramod Gohadkar, Advocate for the Respondent

Final Decision : Allowed

Judgement

Sujoy Paul, J.—This petition filed under Article 227 of the Constitution, challenges the order of Collector of Stamps dated 8.8.2011 (Annexure P/2) and the order dated 9.4.2012, passed by the Revenue Board, whereby the revision of petitioner against Annexure P/2 is rejected.

2. An agreement of sale was entered into between the petitioner and respondent No. 4 for purchase of a piece of agriculture land. When the respondent No. 4 declined to execute the sale deed in favour of the petitioner, the petitioner filed a suit in the court of Fourth Additional District Judge for specific performance of contract against the respondent No. 4. The trial court impounded the said agreement u/s 33 of Indian Stamps Act, 1899 (for brevity, the "Act") and forwarded it before the Collector of Stamps, Gwalior to determine the proper stamp duty on the document.

3. The document, Annexure P-1, was submitted before the Collector of Stamps. The said authority passed the impugned order dated 8.8.2011. It was held by the said authority that agreement of sale shows that full consideration was paid by the petitioner and, therefore, it can be presumed that possession was delivered

to the petitioner. On the basis of this, he directed for payment of stamp duty as per market value and valued the land as Rs. 13,20,000/-. The Board of Revenue affirmed the said finding.

4. Shri S.P. Shukla, learned counsel for the petitioner, assailed the said finding on the ground that no presumption can be drawn regarding taking of possession by the petitioner merely because the full consideration has been paid by the petitioner pursuant to agreement of sale. He submits that the order is bad in law. He criticized the order of Board of Revenue on the same ground. He relied on *Balkrishna Bihari Lal Vs. Board of Revenue, M.P. and Others*, and *Ku. Rachna Khare Vs. Bachchoo Ram and Another*, .

5. Shri Raghvendra Dixit, learned Government Advocate and Shri Pramod Gohadkar, learned counsel for the other side, supported the order. Learned Government Advocate relied on *Mohd. Yunus Vs. Mohd. Mustaqim and Others*, to submit that even a wrong order need not be interfered with.

6. I have heard learned counsel for the parties and perused the record.

7. This is not in dispute between the parties that as per Schedule I-A of Indian Stamps Act, 1899, there are two different entries for the purpose of stamp duty in relation to immoveable property, when possession is delivered and when possession is not given. In the impugned orders, the authorities below opined that when full consideration pursuant to agreement of sale is paid by the petitioner, it can be concluded that possession is delivered to the petitioner. The question is, whether such finding is justifiable?

8. This is settled in law that conclusion arrived at must be based on reasons. The Apex Court held that reasons are heartbeats of conclusion. In *Kranti Associates Pvt. Ltd. and Another Vs. Sh. Masood Ahmed Khan and Others*, , the Apex Court emphasized the necessity to assign reasons in following words:-

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny.

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process."

9. The authorities below have not taken pains to assign any reason for their conclusion regarding presumption of delivery of possession on payment of full sale consideration. In absence of reasons, the impugned orders cannot be permitted to sustain. The Apex Court in *Shalini Shyam Shetty and Another Vs. Rajendra Shankar Patil*, , opined that if the order suffers from any manifest procedural impropriety or is against law, interference can be made.

10. In the present case, in absence of reasons for the conclusion arrived at, in my opinion, the decision making process became polluted and orders without reasons cannot sustain the judicial scrutiny.

11. Petition deserves to be allowed. Accordingly, the impugned orders dated 8.8.2011 (Annexure P/1) and 9.4.2012 (Annexure P/4) are set aside. The matter is remitted back before the Collector of Stamps to rehear the parties again and

pass order in accordance with law. It is expected that the said authority will decide the matter expeditiously, preferably within thirty days.

12. Presently, this Court has not expressed any opinion on the merits of the matter. Petition is allowed. No cost.