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In the Andhra Pradesh High Court

Case No : Writ Petition No. 12981 of 2002

A.P. Teachers Federation Krishna District Co-operative Building Society Ltd. — APPELLANT

Vs

District Registrar and Another — RESPONDENT

Date of Decision : 22-09-2006

Acts Referred:
Stamp Act, 1899 — Section 47A

Citation : (2006) 6 ALD 237 : (2006) 6 ALT 749

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : V.S.R. Anjaneyalu, for the Appellant; Government Pleader for Revenue, for the Respondent

Judgement

V.V.S. Rao, J.—The Andhra Pradesh Teachers'' Federation, Krishna District Cooperative Building Society Limited (''the Society'', for brevity) filed the instant writ petition seeking a writ of mandamus to declare the action of the District Registrar, Gunadala, Vijayawada, and the Sub-Registrar, Gunadala, Vijayawada, in not complying with the process of registration of the pending document bearing Nos. 223/2000 to 233/2000 and 216/2002, as illegal and arbitrary. It also seeks a consequential direction to the respondents.

2. The brief fact of the matter, as disclosed in the affidavit accompanying the writ petition, would show that the Society purchased an extent of Acs.24.11% cents of agricultural land situated at Gunadala Village, from different landowners. When the landowners in respect of land admeasuring Acs.l7.713/4 cents refused to register the documents, the Society filed suits for specific performance of agreements of sale, being O.S. Nos. 252 of 1992 and batch, on the file of the Court of the Senior Civil Judge, Vijayawada. These suits were decreed directing the defendants (landowners) to register the sale deeds in favour of the plaintiffs. When the same was not done, the Society then filed E.P. No. 188 of 1994 in O.S. No. 252 of 1992 and batch, praying the civil Court to register the sale deeds.

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These petitions were allowed and after completing the formalities, the learned Senior Civil Judge, executed the sale deeds on 24-6-2000 in favour of the Society and presented them for registration before the second respondent, which were kept pending.

3. The second respondent filed counter-affidavit opposing the writ petition. It is stated that the relevant date for collection of stamp duty is the date of presentation of the document, as held by a Division Bench of this Court in Siddula Madhukar and another Vs. Govt. of A.P. and another, , and that even when the sale deed is presented pursuant to the decree, the date of presentation of the document has to be taken into consideration for the purpose of stamp duty.

4. After hearing the learned Counsel for the petitioner, this Court is of the considered opinion that the judgment of the Division Bench, to which I was a Member, in Siddula Madhukar''s case (supra), covers all aspects of the matter. The Division Bench considered the question whether in respect of payment of stamp duty under the Indian Stamp Act, 1989 (''the Act'', for brevity), the date on which an agreement of sale was executed or the date of execution of sale deed which was the subject-matter of a suit for specific performance of contract wherein a decree and judgment has been passed, would be the relevant date.

5. A perusal of the judgment would reveal the following. Initially in Sub-Registrar, Nalgonda Dist. Vs. Amaranaini China Venkat Rao and others, , a learned Single Judge of this Court took a view that there is no justification on the part of the registering authorities in demanding stamp duty on the basis of the market value prevailing on the date of execution of the sale deed by the civil Court. In pursuance thereof, the Inspector General of Stamps and Registration issued a circular, dated 24-12-1998, directing all the registering authorities not to seek any reference u/s 47-A of the Act, whenever sale deeds are executed, pursuant to the Court decrees. Subsequently, in another writ petition, being W.P.No. 34859 of 1998, a learned Single Judge observed that even where the sale deed is executed by the Court, the matter can be referred u/s 47-A of the Act. Having noticed the conflicting views, another learned Single Judge refereed Siddula Madhukar''s case (supra), to the Division Bench. Be that is it is, after the judgment of the learned Single Judge in W.P.No. 34859 of 1998, another circular, dated 8-4-1999, was issued to keep in mind the orders of this Court, dated 16-12-1998, in the latter case. When the Division Bench heard the matter, a decision of a learned Single Judge in another case, being Paramount Co-operative Housing Society Limited v. Sirajunnisa Begum 1997 (3) ALD 261, was brought to notice of this Court, wherein it was held that the market value shown in the plaint on the date of presentation of the suit would be adopted for collection of stamp duty to engross final decree of partition. The Division Bench then considered the provisions of Section 47-A of the Act and while holding that the judgment of the learned Single Judge in Sub-Registrar, Kodad v. Amaranaini China Venkat Rao case (supra), is per incuriam, overruled the same, observing that in case of dispute as regards the correctness or otherwise of the market

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value of the land, registering authority will have to take recourse to the provisions contained in Section 47-A of the Act and that a Collector can also take suo motu notice thereof. It was further laid down in Paragraphs 13 and 14, as under:

There cannot be any doubt that the tax imposed is to be calculated on the basis of the rate when the instrument itself is executed. Such an instrument, for the purpose of registration or otherwise in terms of the provisions of the Indian Stamp Act cannot relate back to the date of execution of an agreement for sale. It is now well settled principle of law that there cannot be any intendment in relation to a tax.

Only because in relation to such an agreement for sale a suit for specific performance of contract had to be filed and a decree was passed is no ground to hold that in such a case the duty payable would be calculated at the rate which was prevailing at the time of execution of the agreement for sale and not at the rate which was prevailing at the date of execution. The statute does not say so..

6. In view of the above binding precedent, it must be held that the respondents are bound to determine the market value of the property mentioned in the sale deeds, presented by the Court of the Senior Civil Judge, Vijayawada, on 24-6-2000, as on the date of execution and if for any reason there was dispute, the documents can be referred to the Registrar u/s 47-A of the Act, as held by the Division Bench of this Court. Therefore, the second respondent may consider the sale deeds immediately, in the light of the judgment of the Division Bench within a period of four weeks from the date of receipt of a copy of this order.

7. The writ petition is accordingly disposed of. There shall be no order as to costs.

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