(2015) 08 KAR CK 0400

In the Karnataka High Court

Case No : Writ Petition No. 11028 of 2013 (GM-ST/RN)

Ashok Kumar Nahar APPELLANT

Vs

The Regional Commissioner, Bangalore and Others RESPONDENT

Date of Decision : 11-08-2015

Acts Referred:

Karnataka Stamp Act, 1957 — Section 45-A(5)

Citation : (2015) 5 KarLJ 379

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : Paras Jain, for the Appellant; E.S. Indiresh, High Court Government Pleader, Advocates for the Respondent

Final Decision : Disposed off

Judgement

A.S. Bopanna, J—The petitioner is assailing the order dated 4-1-2013 at Annexure-C whereby the order dated 30-11-2010 has been confirmed by the 1st respondent. The petitioner has purchased the property bearing Municipal Corporation No. 339/1, Anantharamaiah Compound, Kuvempu Nagar, Mysore Road, Bangalore, under the sale deed dated 7-2-1998. The document is registered as No. 2991/1997-98 in the office of the Sub-Registrar, Srirampuram, Bangalore. The 2nd respondent herein had initiated proceedings on the ground that the petitioner had undervalued the property and the stamp duty paid is less than what was required to be paid. By the order dated 30-11-2010 it has been held that the appropriate value is Rs. 1,500/- per sq. ft. In that light, the value has been calculated and the difference of the stamp duty and the registration fee has been ordered to be paid. The petitioner appealed against the said order before the 1st respondent under Section 45-A(5) of the Karnataka Stamp Act, 1957. The Appellate Authority has upheld the order. It is in that background the petitioner is before this Court.

2. The learned Counsel for the petitioner would point out that three portions of the property were purchased at the same point in time by three different persons

and one of the portion was purchased by the petitioner herein. Reference is made to the order at Annexure-A, dated 14-7-2008 whereunder one Sri S. Vasanthakumar had purchased the property under the sale deed registered as No. 2875/1997-98. It is pointed out that in the said case, the very same authority has arrived at the conclusion that the property is to be valued at Rs. 140/- per sq. ft. In that view it is contended that the order by which the value of the property purchased by the petitioner is held to be Rs. 1,500/- per sq. ft., is not justified. It is his case that the 1st respondent-Appellate Authority has also not bestowed its attention to this aspect of the matter.

3. The learned Government Advocate would, however, point out that the Appellate Authority, in the order impugned, has taken note of this aspect and has arrived at the conclusion that as on the date of inspection of the property, the property purchased by the petitioner was found to be used for commercial purpose and therefore a higher value has been fixed.

4. In the light of the above, at the outset, it would be necessary to take note of the order passed by the Appellate Authority. It is no doubt true, a reference has been made therein stating that the original authority, at the time of inspection, has found that the property was being used for commercial purpose and without disclosing this fact, the valuation of the residential property has been made and the stamp duty has been paid accordingly. Even if the reason indicated therein is perused, the same does not satisfy the requirement. In that light, if the order of the original authority is taken into consideration, there is a reference to the spot inspection having been made on 7-5-2004. The sale transaction is dated 7-2-1998. If that be the position, the status of the property as on the date of the transfer was required to be taken into consideration and the property value that was required to be fixed as on that date, was to be determined. Therefore the said consideration as made, is not justified. When the sale transaction of another purchaser Sri S. Vasanthakumar relating to a similar property had taken place around the same time, the order passed in the said case and the nature of the property therein, as also the nature of the property in the case of the petitioner, would have to be kept in view and in that light, a decision would have to be taken by the 2nd respondent. Hence the order dated 30-11-2010 passed by the 2nd respondent, as also the order dated 4-1-2013 passed by the 1st respondent at Annexures-B and C, respectively, are quashed. The matter is remitted to the 2nd respondent who shall take note of the status of the property as on the date of the sale, namely 7-2-1998, keep in view the order passed on 14-7-2008 relating to the document bearing No. 2875/1997-98 and thereafter pass fresh orders, in accordance with law. Such order shall, in any event, be passed within two months from the date on which a copy of this order is furnished.

Petition is accordingly disposed of.

