
(2001) 09 MP CK 0009

In the Madhya Pradesh High Court

Case No : Writ Petition No. 877 of 2001 (G)

Bhagwan Das Jain

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 13-09-2001

Acts Referred:

Stamp Act, 1899 — Section 47A(1A)

Citation : (2001) 2 MPJR 470

Hon'ble Judges : Shravan Shanker Jha, J

Bench : Single Bench

Advocate : N.K. Gupta, for the Appellant; K.B. Chathurvedi, Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

S.S. Jha, J.

Petitioner has filed this petition for directing Respondents to register the sale deed, Annexure P/1. It is contended by the Petitioner that Petitioner has purchased property from one Shri Arjunrao Khatke and sale deed was executed on 31.3.2001 alongwith map of the property sold. The sale deed was presented before Respondent No. 3 for registration. Respondent No. 3 has refused to accept the registration fee charges and is not registering the sale deed. It is contended that the sale deed has not been registered by the Sub Registrar and Sub Registrar is duty bound to register the sale deed when it is presented.

Counsel for Petitioner invited attention to the provisions of Section 47 (1 -A) Indian Stamp Act as amended in MP and submitted that if the Registering Officer finds that the market value set forth in the instrument is not less than the minimum value determined in accordance with any rules under this act, and the Registering Officer has reason to believe that the market value has not been truly set forth in the instrument, he shall register such instrument and, thereafter, refer the same to the Collector for determination of market value of

such property and proper duty payable thereon. Counsel for Petitioner, therefore, submitted that Sub Registrar is duty bound to register the document and if he has reason to believe that the market value has not been truly set forth in the instrument then he shall refer the document to the Collector for determination of market value and proper duty payable thereon. Counsel for Petitioner submitted that sale deed was presented on 30.3.01 for registration and when sale deed was not registered this petition was filed and notices were issued on 4.6.01.

It is contended by the counsel for Petitioner that immediately after notices were received Sub Registrar hurriedly referred the dispute to the Collector. It is, therefore, submitted that Registrar be directed to perform his duty and register the document. In an explanation Respondent No. 3 has submitted that u/s 47-A(1) if the Registering authority finds that the market value of the property has been set forth less than minimum value determined in accordance with any rules under this Act then Registrar, before such registration, shall refer the same to the Collector for determination of the market value and proper duty payable thereon.

It has been contended by the Respondents that u/s 47-A(1) it is duty of the officer registering the document to examine the value set forth in the document and if the value has been set forth less than the minimum value determined in accordance with any rules under the act then before registering the instrument the document shall be referred to the Collector for the determination of the market value of such property and proper duty payable thereon.

In Section 47-A of the Principal Act, for Sub-section (1), the following Sub-sections shall be substituted namely -

(1) If the Registering Officer appointed under the Registration Act, 1908 (No. XVI of 1903), while registering any instrument finds that the market value of any property which is the subject matter of such instrument has been set forth less than the minimum value determined in accordance with any rules under this Act, he shall before registering such instrument refer the same to the Collector for the determination of the market value of such property and the property duty payable thereon.

(1-A) Where the market value as set forth in the instrument is not less than the minimum value determined in accordance with any rules under this Act, and the Registering Officer has reason to believe that the market value has not been truly set forth in the instrument, he shall register such instrument and thereafter refer the same to the Collector for determination of market value of such property and proper duty payable thereon.

From the bare perusal of this Act it is necessary that the valuation of the price should be determined in accordance with the rules framed under this act.

6, Two returns have been filed by the Respondents wherein it is mentioned that the amendment in the Stamp Act has come into force w.e.f. 1.8.00. Petitioner had filed the document Annexure R/4. Thus rules are framed u/s 47-A of M.P.

Stamp Act and are known as M.P. Preparation and Revision of Market Value Guideline Rules, 2000. Rule 4 provides for the Constitution of District Valuation Committee and Sub District Valuation Committee and their functions. The District Valuation Committee shall collect information on property values and property trends which would be compiled in the form of primary data alongwith existing data. The committee shall analyse the proposed values in Form I, II, and III, as the case may be, alongwith other information received from the Sub District Valuation Committee and the information collected in respect to construction rates, actual rates of the properties, etc. compiled in the form of preliminary data to fix the provisional values. Thereafter the Committee shall send the provisional values for approval of Central Valuation Board and to issue the market value guidelines for different areas on approval. The Respondents in the return have not mentioned that the valuation has been determined. From perusal of Annexure R/3 filed by the Respondents it is clear that Sub Registrar had inspected the spot and has determined that in Kampu Naya Bazar area, the price of the properties for commercial purpose is 40 times of annual rent of market value of property at Rs. 14,50,300/-. This order was passed on 4.6.01, three months after presentation of sale deed. It is also mentioned that the spot inspection was carried out behind the back of Petitioner. There is nothing in the order, that the parties were informed before the spot inspection.

Considering the provisions of Section 47-A(1) of the Act it will be apparent that if the authority is not satisfied with the market value set forth in the instrument then he shall determine the value in accordance with the rules made under this act and if such registration is contrary to the rules, then before registering the instrument matter shall be referred to the Collector for proper valuation.

However from the rules Annexure R/4, no documents had been filed that the minimum market value had been determined by the Central Valuation Committee or District Valuation Committee, therefore, the provisions of Section 47-A (1 -A) of the Act shall comply. If the Sub Registrar is not satisfied with the valuation in the instrument then he shall register such instrument and thereafter refer the same to the Collector for determination of market value of such property. Attention was invited to para 13 of the rules referred in Annexure R/4 wherein it is held that till the market value guidelines are issued for the first time by the Committee constituted under these rules, the market value guidelines shall be prepared by the Sub Registrar of the concerned Sub District for the purpose of making reference to the Collector under Sub-Section 1 of Section 47-A of the Indian Stamp Act. Thus, on perusal of the provisions of rules known as M.P. Preparation and Revision of Market Value Guideline Rules, 2000, there is no provision for spot inspection and determining the market value. There is nothing on record to demonstrate that the market value guidelines have been prepared by the Sub Registrar of the concerned Sub District for the purpose of making the reference to the Collector under Sub-Section 1 of Section 47-A of the Indian Stamp Act. As such from the facts of the case it is apparent that in the absence of market value guidelines prepared by the Sub Registrar, the Sub Registrar was

bound to follow the procedure laid down u/s 47-A (1 -A) of the Indian Stamp Act.

There is no provision for spot inspection and determining the market value. No guidelines have been produced by Respondents to demonstrate that the valuation is less than the minimum price fixed under the guidelines prepared by the Sub Registrar. There is nothing on record that such guidelines had come into force. Even in the return filed by Respondents it is not mentioned that the valuation put in the instrument was much less than the guidelines prepared by the Sub Registrar therefore document was referred to the Collector. Thus, the act of Sub Registrar in referring the document to the Collector is without jurisdiction and if the Registrar felt that the property is insufficiently stamped or under valued he should have acted u/s 47-A (1 -A) of the Act.

In the result petition succeeds and is allowed. Respondents are directed to register the document and regarding the valuation of the property there are reasons to believe that the market value has not been set forth properly in the instrument then it shall refer the document to the Collector after registration for determining the market value of such property and proper duty payable thereon. Sub Registrar must pass a reasoned order and the copy of speaking order be supplied to the party who has presented the instrument for registration.

Petition succeeds and is allowed. Original file of the case be returned back to the counsel for the State.