(2006) 07 AP CK 0114

In the Andhra Pradesh High Court

Case No : CRP No''s. 184, 664 and 677 of 2005

District Registrar and Collector APPELLANT

Vs

Varun Vehicles (P) Ltd. RESPONDENT

Date of Decision : 24-07-2006

Acts Referred:

Andhra Pradesh Revision of Market Value Guidelines Rules, 1998 — Rule 5
Andhra Pradesh Stamp (Prevention of Under Valuation of Instruments) Rules, 1975 — Rule 13, 4, 4(2), 4(4), 9
Stamp Act, 1899 — Section 47A, 47A(1), 47A(2), 47A(3), 47A(4)

Citation : (2006) 6 ALD 825 : (2007) 1 ALT 224

Hon'ble Judges : G. Bhavani Prasad, J

Bench : Single Bench

Advocate : Government Pleader for Arbitration, for the Appellant; T. Jagadish, for the Respondent

Final Decision : Dismissed

Judgement

G. Bhavani Prasad, J.—Civil Revision Petition Nos. 184 of 2005, 664 of 2005 and 677 of 2005 arise out of identical orders in C.M.A. Nos. 30 of 2002, 2 of 2001 and 1 of 2001, dated 26-4-2004 of the Principal Senior Civil Judge, Visakhapatnam.

2. The Proceedings No. MV5/2730/ 2001, dated 6-2-2001 of the Commissioner and Inspector General of Registration and Stamps, Andhra Pradesh, Hyderabad were issued on the proposals of the District Registrar, Visakhapatnam, for rectifying anomalies of values pertaining to certain areas at Visakhapatnam and while enclosing the copy of the agreed list, the District Registrar, Visakhapatnam was directed to take steps for implementation of the revised values with effect from 9-2-2001. The revised values were also directed to be entered in the Guidelines Register with corresponding changes in the computer data also. The purchasers of properties in all the three cases adopted the value as per the basic Value Register, but the Joint Sub-Registrar made references to the District Registrar u/s 47-A of the Indian Stamp Act, 1899 (for short ''the Act'') and the

Andhra Pradesh Stamp (Prevention of under Valuation of Instruments) Rules, 1975 (for short ''the Rules''). After hearing the objections of the purchasers and considering the report of the Revenue Inspector, who inspected the property and on personal inspection of the property, the District Registrar passed orders dated 28-3-2002, noting that the property is nearer to the main road of Andhra University which runs from Siripuram Junction to Pedawaltair main road, the Bungalow of the Deputy Inspector General of Police in developed area, a permanent building of Vignan College and residential college and that in three documents registered in the year 2000 after execution on 26-8-2000, the value per square yard was Rs. 3,000/-. The potentialities of the commercially developed sites in the location, the value of Rs. 3,000/- per square yard adopted one year four months earlier etc., were considered by the District Registrar as showing the real value of the properties to be Rs. 3,600/- per square yard on which the deficit stamp fee has to be paid only on which the registration of the documents can be done.

3. Aggrieved by the orders of the District Registrar, the purchasers have filed the three Civil Miscellaneous Appeals contending that the existence of other buildings in the area is not new or a value addition and the District Registrar did not conduct any enquiry, did not call for any information from any public office and did not examine any disinterested witness. He did not follow the procedure prescribed by Rule 4(2) of the Rules and simply relied on the report of the Revenue Inspector, which is not an enquiry in the eye of law.

4. The Principal Senior Civil Judge, Visakhapatnam, in the impugned orders, found that while the purchasers valued the properties at Rs. 3,00/- per square yard, the District Registrar levied Rs. 3,00/- per square yard. The payment of stamp duty made by the purchasers on the strength of the basic Value Register was not disputed and it was also not disputed that Clause 2 of Section 47-A of the Act was not applicable. Whether the District Registrar could have reasonably believed that the property was under-valued, was considered in the impugned orders and it was noted that a part of the property adjacent to the properties sold now, was sold at Rs. 3,000/- per square yard on 26-8-2000 roughly seven months earlier. The seven guidelines given to the Collector for determining the market value were noted. It was also noted that under Rule 5 of Andhra Pradesh Revision of Market Value Guidelines Rules, 1998, the Collector can revise the Market Value Guidelines with the effective date for implementation on 1st August of every year. The order of the District Registrar was observed to be not fair without any special circumstances to revise the value within seven months due to which no special revision could have been made before 1st August. It was also noted that even the inspection report of the Revenue Inspector was not reflected in the orders and referring to the decision reported in Sagar Cements Ltd., Mattampalle, represented by its Managing Director V. Butchaiah Chowdary v. State of Andhra Pradesh, represented by its Secretary, G.A.D. and Ors. 1989 (3) ALT 677 , it was opined that there was no material before the District Registrar to show that the documents were under valued with a view to defraud the

Government of the legitimate revenue. When there is no basis to reasonably believe that the documents are under valued, no reference could have been made as held in Ponnavolu Sasidar Vs. Sub-Registrar Hayatnagar, and others, . It was observed that there is no material to show any rapid development increasing the value within a span of one and half years and hence, the impugned orders of the District Registrar were set aside and he was directed to register the documents in question.

5. Aggrieved by the said orders, the District Registrar filed these three revision petitions contending that the orders, which were set aside, were based on the seven Guidelines given to the Collector for determining the value and the lapse of one and half years between the earlier transactions and the transactions in question should have been considered as probablising the enhanced market value enhanced by the Market Value Committee from Rs. 3,000/- -to Rs. 3,600/- with effect from 9-2-2001 much prior to the sale deeds. Hence, he sought for upsetting the orders in question.

6. Sri Kiran Babu, learned Assistant Government Pleader has strenuously contended that the orders of the District Registrar were within the parameters laid down by the Statute and the Statutory Rules and could not have been interfered with.

7. Sri T. Jagadish, learned Counsel for the respondent defended the impugned judgments and decrees.

8. The point that arises for consideration in these revision petitions is whether the District Registrar could have revised the market value upwards effecting registration of the documents in question?

9. Section 47-A of the Act, inserted by the Andhra Pradesh Act XXII of 1971 and amended from time to time by subsequent State Enactments, provided the procedure for dealing with instruments of conveyance, which are under valued. The statutory rules under the provision are contained in the Andhra Pradesh Stamp (Prevention of Under Valuation of Instruments) Rules 1975. The Registering Authority can make a reference to the Collector under Sub-section (1) on receipt of which the Collector shall, after giving the parties an opportunity of making their representation and after holding an enquiry in such manner as may be prescribed by the rules, determine the market value of the property and proper duty payable thereon. Any person aggrieved by the order of the Collector under Sub-section (2) was given a right of appeal under Sub-section (4) and the Appellate Authority was specified by Sub-section (5). Sub-section (6) provides that the market value of the property shall be estimated to be the price, which in the opinion of the Collector or the appellate authority, as the case may be, such property would have fetched or would fetch if sold in the open market on the date of execution of any instrument.

10. The Andhra Pradesh Stamp (Prevention of Under Valuation of Instruments) Rules 1975 provide in Rule 4 that on receipt of a reference, the Collector shall

issue notice and may record a statement from the person to whom such notice has been issued or call for any information or record a statement from any public office or an officer or authority under the Government or any local authority or examine and record statements from any member of the public or officer or authority and inspect the property. Under Sub-rule (4) it is only after considering the representations from the persons to whom notices were issued and after examining the records and evidence, the Collector shall pass an order determining the market value. The rule mandates that the basis on which the market value or consideration was determined shall be clearly indicated in the order. The principles for determination of the market value are laid down in Rule 5.

11. In the present cases, the District Registrar did not record any statement from the purchasers, did not call for any information or record from any officer or authority and did not examine any member of the public. He had, in effect and substance, relied on the proceedings of the Commissioner and Inspector General of Registration and Stamps, dated 6-2-2001, directing to implement the revised values in the agreed list with effect from 9-2-2001.

12. The Andhra Pradesh Revision of Market Value Guidelines Rules, 1998, which are also statutory rules issued in exercise of the powers conferred by Section 47-A of the Act, clearly laid down in Rule 5 that the date of implementation for Periodicity of Revision of Market Value Guidelines shall be 1st August in Urban areas covered by Rule 4(2)(a), and Buildings, Apartments and Structures covered by Rule 4(2)(d). Periodicity of Revision in such cases is every year. Of course, Rule 9 of the said Rules provides for a Power of Special Revision with the Commissioner and Inspector General of Registration and Stamps for any specified area, but such Power of Special Revision is given only under circumstances leading to a sudden appreciation of land values. The specified circumstances are - setting up of an Industry or group of Industries or Infrastructural Projects, development of large scale housing projects, development of Ayacut under Irrigation projects or any other special circumstances having an impact on the values of immovable property in any specified area. In the present case, the first three circumstances, admittedly, do not exist and no special circumstances having an impact on the values of the immovable property in that specified area were even alleged, leave alone proved.

13. Rule 13 of the said Rules provides for rectification of anomalies and the rule speaks of representations received from the affected parties being dealt with by the Authority Competent for rectification of anomalies. Rule 13 does, of course, speak of an officer of the Department also, if he notices anomalies, moving the specified Committee and the Committee sending proposals to the Commissioner and Inspector General for rectification of such anomalies by upward or downward revision. But, it can be only after duly following the procedure prescribed under the rule. The proposals sent by the District Registrar or the specified Committee are not placed before the Principal Senior Civil Judge or this Court to know

whether the proposals were made after duly following the procedure prescribed under the rules or what anomaly was noticed by the District Registrar. Rule 13 does not indicate that any rectification of such anomalies at the instance of an officer can be from a date different from the date of implementation prescribed by Rule 5. While admittedly it is not a case of special revision under Rule 9 enabling fixation of any other date for implementation under Sub-rule (3) thereof, any upward revision of the Market Value Guidelines in rectification of any anomaly also may have to be given effect to from 1st August only and not earlier, if Rules 13 and 5 were to be read in harmony. Therefore, the action of the District Registrar in seeking to implement the revised values with effect from 9-2-2001 and not with effect from 1-8-2001, even assuming that there were anomalies, which were rectified under Rule 13, does not appear to be in consonance with the Andhra Pradesh Revision of Market Value Guidelines Rules, 1998, If so, the question of the value adopted by the parties being not as per the Market Value Guidelines does not arise as admittedly the earlier Market Value was Rs. 3,000/- per square yard as per the Guidelines, which was so adopted by the parties.

14. Even assuming that Sub-sections (2) and (6) of Section 47-A of the Act provide an independent jurisdiction to the District Registrar to determine the market value in particular cases irrespective of the statutory Market Value Guidelines, the orders of the District Registrar do not disclose any material to come to such conclusion. The properties in question were located in Survey No. 58/2 at Pedawaltair near Andhra University Main Road running from Siripuram Junction to Pedawaltair near the bungalow of Deputy Inspector General of Police, building of Vignan College, Siripuram Junction and Varun Motors work shop since long and not merely since a year or two prior to the registration. None of these structures or commercial activities were claimed to have happened between 2000 and 2001 and there was no claim that any activities carried on in and around suddenly shop up increasing the commercial and market value of the area. Three documents of the year 2000 were referred to by the District Registrar executed on 26-8-2000, which were permitted to be registered as per the then basic value register at Rs. 3,000/- per square yard and the report of the Revenue Inspector was not produced before the Court. What were the factors noticed by the District Registrar during personal inspection were not stated. The objections of the purchasers were not answered, though careful and thorough consideration was stated to have been given to their contentions. The District Registrar''s order should be such an order as would clearly indicate the basis for his decision according to Rule 4 of the Andhra Pradesh Stamp (Prevention of Under Valuation of Instruments) Rules 1975 and Sub-rule (4) thereof is an embodiment of the principles of natural justice which have to be invariably followed. When the District Registrar could not even make a pretence of complying with the statutory mandate of Rule 4, his order does not appear to be sustainable in the eye of law. The Principal Senior Civil Judge noted in the impugned orders that the non-applicability of Section 47-A(2) is admitted and

that any reason to believe that the documents are under valued or in violation of the Guidelines is not proved. The conclusions are based on cogent and convincing reasons with which there can be no interference. As the Registering Officer could not have found any basis to reasonably believe that the documents are under valued and the Collector could not have sustained any such belief, the impugned judgments of the Principal Senior Civil Judge, Visakhapatnam, as the appellate authority u/s 47-A of the Indian Stamp Act, have to be sustained.

15. In the result, these civil revision petitions are dismissed without costs.

