(1997) 02 AP CK 0010

In the Andhra Pradesh High Court

Case No : Writ Petition No. 16431 of 1989

Hemalatha Sugnadhi	APPELLANT
Vs	
Appellate Authority under Section 47-A Stamp Act-Principal Sub-Judge and Others	RESPONDENT

Date of Decision : 05-02-1997

Acts Referred:
Constitution of India, 1950 — Article 226
Stamp Act, 1899 — Section 47A

Citation : (1997) 3 ALT 808

Hon'ble Judges : M.H.S. Ansari, J

Bench : Single Bench

Advocate : K.K. Wagray, for the Appellant; Govt. Pleader for Revenue, for the Respondent

Final Decision : Allowed

Judgement

M.H.S. Ansari, J.—The above Writ Petition is filed assailing the orders passed by the Appellate Authority u/s 47-A of the Indian Stamp Act (for short "the Act") dismissing the appeal filed by the petitioner herein.

2. Briefly the facts giving rise to the filing of the said Appeal and consequently the above Writ Petition are as under :

The petitioner herein purchased agricultural land admeasuring Ac.1.37 guntas in Sy. Nos. 53,54,55 situated at Premavathipet village in Ranga Reddy District for a total consideration of Rs. 1,00,000/- (Rupees One lakh only). On presentation of the sale deed for registration before the Registering Authority, the said sale deed was kept pending for determination of the market value. The Registration Authority - 3rd respondent herein estimated the market value at Rs. 93,000/- (per acre) and referred the said document to the 2nd respondent herein for determination of the market value u/s 47-A of the Stamp Act. After enquiry, the 2nd respondent herein passed an order dt. 10-5-1989 confirming the market value as fixed by the 3rd respondent and directed the petitioner herein to pay the deficit stamp duty and registration charges so payable on the market value as determined. Aggrieved against the said order, the petitioner preferred an appeal and the same was dismissed by the impugned orders dated 3-10-1989 confirming the orders passed by the respondent authorities determining the higher market value.

3. The short question for consideration in the above Writ Petition is whether the determination of the market value by the respondent Registering authorities as confirmed by the Appellate Authority is valid in law.

4. Sri. K.K. Wagray, learned Counsel for the petitioner, contended that the determination of the market value by the respondent - Registering Authorities has been made solely on the basis of the Basic Value Register maintained by them and that there is no supporting evidence to sustain the finding that the market value is over and above the sale consideration specified in the sale document presented for registration. It was further submitted that for the lands adjacent to the one which are subject matter of the sale deed in question, the Registering Authorities by their Proceedings Nos. 217/47-A/88 to 221/47-A/88 dated 12-8-1988 have fixed the market value at Rs. 75,000/- after enquiry. In view of the determination already made of the adjacent lands, there is no basis for the respondent authorities to determine the market value in respect of the land in question at Rs. 93,000/- per acre as per the Basic Value Register.

5. Learned Government Pleader for Revenue, however, contended that the proceedings of the Registering Authorities disclose the reason and basis for determination of the market value at Rs. 93,000/-. Learned Government Pleader referred in extenso to the orders passed by the District Registrar and Collector u/ s 47-A wherein reference has been made to the inspection made of the land in question which is located by the side of the Highway (Hyderabad-Kurnool) near the A.P. Agricultural University, Rajendranagar and is at a distance of 9 kms. from Hyderabad and the land is having vast potential for instantaneous development for Commercial/ Industrial purposes residential houses were also noticed around the land and buzzing activity of Housing Commercial /Residential Establishment is noticed in the area. As per the local enquiries made from the responsible persons, the value of the land on the road side could be around Rs. One lakh and therefore the determination of the market value in the Basic Register at Rs. 93,000/- per acre was found reasonable and was accordingly determined at Rs. 93,000/- per acre in respect of the land in question.

6. Learned Government Pleader contended that the statutory rules laying down the guidelines for determination of the market value under Rule 5 of A.P. Stamp (Prevention of Under-valuation of Instruments) Rules have been duly complied with. Therefore, the orders passed by the respondent authorities as confirmed by the appellate authority warrant no interference, it was contended by the learned Government Pleader.

7. A perusal of the order passed by the District Registrar and Collector-

Respondent No. 2 u/s 47-A of the Act shows that the market value has been determined as in the Basic Register at Rs. 93,000/- per acre. The 2nd respondent, no doubt, made a personal inspection of the land in question and has noted the physical features and the potential for the development of the land in question and arrived at the conclusion that the market value as in the Basic Register is at Rs. 93,000/- per acre is quite reasonable and therefore determined the market value of the property as Rs. 93,000/r per acre. It is not in dispute that the Registering Authorities had adopted and fixed the value of the very adjacent lands at Rs. 75,000/- per acre u/s 47-A after inspection and hearing the parties concerned by their proceedings dated 12-8-1988. The instrument in question was executed on 13-12-1988 i.e., within a period of four months from the date when the determination was made by the Registering Authorities at Rs. 75,000/-. No reasons have been assigned in the orders by the Registering Authorities as to why the said determination made earlier at Rs. 75,000/- cannot be accepted. Except the said valuation as determined by the Registering Authorities themselves u/s 47-A at Rs. 75,000/- by the proceedings dated 12-8-1988, there is no other document or evidence which can be relied upon by the respondent authorities to substantiate their contention that the market value of the land in question is Rs. 93,000/- as determined in the Basic Value Register. Not a single piece of evidence has been placed on record by the respondent authorities which are in fact the repository of all transactions of conveyances and yet not a single document has been cited, quoted or relied upon to substantiate their contention that the market value can be determined as entered in the Basic Register at Rs. 93,000/-. Merely because there is some activity around the land in question or that the land has vast potential for development that would not be per se the sole factor for determining the market value unless the same can be substantiated by any transactions of conveyance or such other transactions relating to transfer of property. The local enquiries made from persons as to market value are mere opinions and cannot be construed as evidence for determination of the market value when such persons have neither sold nor purchased any lands nor had any transactions in relation therewith.

8. The principles for determination of the market value have been listed under Rule 5 of the A.P. Stamp (Prevention of Under-valuation of Instruments) Rules, 1975. Under the said rule, the Collector shall, as far as possible, have regard to the points enumerated therein in determining the market value. In the case of lands, it is inter alia laid down in Clause 6 that regard shall be had to the value of adjacent land or lands in the vicinity. The value of the adjacent land cannot therefore be ignored. The determination of market value is not a matter of subjective satisfaction of the Valuation Officer but, has to be based on objective criteria. In the instant case, adjacent lands had been valued u/s 47-A at Rs. 75,000/- by the proceedings of the District Registrar and Collector dated 12-8-1988, referred to above. The same cannot be lightly brushed aside or altogether ignored without valid reasons. The only reason for ignoring the same by the subsequent Valuation Authority i.e., the District Registrar and Collector

(Respondent No. 2) is said to be the local inspection made and the local enquiries made from some persons who, as noted above have neither purchased nor sold any lands nor their statements/ opinion can be supported by any document registered or otherwise.

9. One thing is apparent that the 2nd respondent was mainly influenced by the fact that the Basic Value Register specified the market value of the land in question at Rs. 93,000/- and according to the 2nd respondent, the said value is reasonable and it is this factor that has solely influenced the 2nd respondent in determining the land value at Rs. 93,000/- for the document in question. As already noticed above, not a single documentary evidence has been referred to or relied upon to substantiate the market value of the land in question at Rs. 93,000/-. Needless to reiterate that the value shown in the Basic Value Register cannot constitute the sole basis for determination of the market value u/s 47-A of the Act. The Basic Value Register does not have any statutory sanction and cannot therefore constitute the basis for determination of the market value of lands, subject matter of enquiry u/s 47-A. The Collector is the authority to determine the market value of the property which is the subject matter of any instrument and the said determination has to be made after conducting an enquiry. The Collector, thus, determining the value of the property which is the subject matter of an instrument u/s 47-A acts as a quasi judicial authority and the conclusions, findings or decisions arrived at by him must be supported by reasons. Any finding reached by such authority is liable to be interferred with by this Court in exercise of its power of judicial review under Article 226 if it is shown to have been reached in the absence of material to support it or is perverse or based on irrelevant considerations. Any exercise of jurisdiction by the Writ Court is circumscribed by such conditions.

10. As noticed above, the conclusion reached by the District Registrar and Collector u/s 47-A as confirmed by the Appellate Authority is not based on any material or evidence to support the same. The said conclusions as to market value have been arrived at solely on the basis of Basic Value Register which has no statutory force. There is no basis or material to support the conclusion arrived at by the respondent authorities nor have any basis or valid reasons been furnished as to why the determination of the market value at Rs. 75,000/- made by the District Registrar and Collector by his Proceedings dated 12-8-1988 cannot be accepted.

11. Admittedly, the time lag between the determination of the market value at Rs. 75,000/- on 12-8-1988 and the presentation of the document in question is not more than six (6) months and there is no document or any sale transaction during this period warranting upward enhancement to Rs. 93,000/-.

12. In the circumstances, the findings arrived at as to market value in the impugned proceedings based on no evidence constitute an error of law and therefore warrant interference with by this Court under Article 226 of the Constitution of India.

13. In the result, the impugned order 3-10-1989 made in C.M.A. No. 6 of 1989 on the file of the 1st respondent confirming the orders passed by the 2nd respondent be and are hereby quashed and set aside.

14. Consequently, it is directed that the market value of the land, subject matter of the Document No. 815 of 1988 shall be determined at Rs. 75,000/-(Rupees Seventy Five Thousand only) and the deficit Stamp Duty and Registration charges, if any, shall be determined on the said basis. Upon determination of such deficit stamp duty and registration charges, the petitioner shall pay the same within such reasonable time as may be determined by Respondent No.3 and upon such payment, the document in question shall be released.

15. Accordingly, the Writ Petition is allowed in the manner and to the extent indicated above. But, in the circumstances without costs.