

(2002) 10 MAD CK 0085

In the Madras High Court

Case No : Writ Petition No's. 9956, 9793 and 13960 of 1999, Writ Miscellaneous Petition No's. 14157 of 1997, 13920-13921 of 1999, 16382, 16383, 28572 and 28573 of 2000 31 October 2002

K.T. Venkatesan

APPELLANT

Vs

Appropriate Authority

RESPONDENT

Date of Decision : 31-10-2002

Acts Referred:

Citation : (2002) 125 TAXMAN 979

Hon'ble Judges : E. Padmanabhan, J

Bench : Division Bench

Advocate : R. Krishnamurthi, A.K. Lakshminarayanan and T.R. Rajaraman, for the Assessee Naresh Kumar, for the Revenue, for the Appellant;

Judgement

In W.P. No. 9793 of 1999, the petitioner, hereinafter referred to as the transferor, owner of premises bearing Door No. 3, Krishnamachari Avenue, Adyar, Chennai-20 has prayed for the issue of a writ of certiorari to call for the proceedings of the first respondent-appropriate authority, Chennai-34, bearing No. A.A/MDS/No. 2(243) 5/98-99, dated 28-5-1999 passed u/s 269 (UD) of the Income Tax Act, 1961 and quash the same.

2. W.P. No. 9956 of 1999 has been filed by the two petitioners, who are the transferees who have entered into an agreement to purchase, hereinafter referred to as transferees to call for and quash the proceedings of the first respondent-appropriate authority, Chennai-34, bearing No. A.A/MDS/No. 2(243) 5/98-99, dated 28-5-1999 passed u/s 269UD(1) of the Income Tax Act, 1961.

3. Pending the writ petitions, in WMP No. 13920 of 1999 in W.P. No. 9793 of 1999 the petitioner has prayed for an order of injunction and only notice was ordered. In WMP No. 13921 of 1999 in W.P. No. 9393 of 1999, the writ petitioner prayed for stay of the impugned proceedings and interim stay was granted on 11-6-1999. In WMP. No. 14157 of 1999 in W.P. No. 9956 of 1999, the petitioners have prayed for stay and interim stay was granted by this court.

4. WMP Nos. 16382 of 2000 in W.P. No. 9793 of 1999 is moved by Praba Venkatachalam and Vandana Venkat respectively the wife and daughter of transferor C.R. Venkatachalam praying that they may be impleaded as party in W.P. No. 9793 of 1999. In W.P. No. 16383 of 2000 in W.P. No. 9793 of 1999 the said Praba Venkatachalam and Vandana Venkat sought for a direction directing the appropriate authority to disburse the sum of Rs. 19 lakhs to the two petitioners being the amount charged as per the decree of the civil court on the property. In WMP No. 28572, the said Praba Venkatachalam and Vandana Venkat have prayed for a direction directing the appropriate authority to pay the first petitioner Praba Venkatachalam Rs. 5 lakhs pending disposal of the earlier WMP as she requires the said amount for the purpose of undergoing surgery and chemotherapy and radiation treatment etc., out of the amount of Rs. 19 lakhs due for the two petitioners towards maintenance and marriage expenses payable by C.R. Venkatachalam. WMP No. 28573 of 2000 has been moved by said Praba Venkatachalam and her daughter to fix an early date for bearing of W.P. No. 9793 of 1999.

5. When the fix, an early date petition and other petitions for directions came up before the court, this court noticed that the first petitioner Praba Venkatachalam has already undergone a major operation namely, removal of her breast due to cancer and she has to undergo further treatment for the dreadful disease of cancer this court, with the consent of counsel for either side, directed that the writ petitions be taken up for final disposal. The learned counsel for the petitioners as well as the respondents readily agreed for taking up the writ petitions. Accordingly, the matter was taken up on 25-10-2002 with the consent of counsel appearing for either side.

6. Heard Mr. R. Krishnamurthi, learned senior counsel appearing for Mr. Thiruvengatasamy in W.P. No. 9793 of 1999 and third respondent in W.P. No. 9956 of 1999, Mr. A.K. Lakshmi Narayanan for petitioner in W.P. No. 9956 of 1999, Mr. Naresh Kumar, standing counsel appearing for the Income Tax Department for respondents 1 and 2 in both the writ petitions, Mr. T.R. Rajagopalan, learned senior counsel for Mrs. Chitra Sampath, who appeared for petitioners in WMP Nos. 16382, 16383, 28572 and 28573 of 2000 in W.P. No. 9793 of 1999.

7. The transferor C.R. Venkatachalam is the owner of the premises bearing Door No. 3, Krishnamachari Avenue, Adyar, Chennai-20. The extent of the said land being 3612 sq.ft., and the extent of building being 1442 sq.ft., in ground floor and 222 sq.ft., in the first floor. The transferor and transferees entered into an agreement to sell and purchase the said premises for an apparent consideration of Rs. 28 lakhs on 10-2-1999. The transferees who have entered into an agreement with the transferor also claim oral tenancy. The transferor and transferees filed a statement in Form No. 37-I in respect of the agreement dated 10-2-1999 entered between themselves.

8. The first respondent issued a show-cause notice under sub-section (IA) of

section 269UD of the Income Tax Act, dated 23-4-1999 to the transferor and transferees along with the valuation report citing two comparable sale instances in the same locality calling upon them to show cause as to why the property should not be purchased by the department u/s 269UD of the Income Tax Act, 1961.

9. The transferor and transferees submitted their objections on 10-5-1999 to said show-cause notice objecting to the exercise of the right of Pre-emptive purchase under Chapter XX-C of the Income Tax Act, 1961. After considering the objections submitted by the transferor and transferees the first respondent-appropriate Authority passed an order u/s 269UD(1) on 28-5-1999 exercising its pre-emptive right to purchase the property for Rs. 27,60,670 after following the procedure prescribed under Chapter XX-C and after considering the relevant materials.

10. The first respondent took the assistance of Superintending Engineer for preparing the valuation reports. The Chief Engineer is one of the members of the appropriate authority. A report was prepared as in other cases dealt by the appropriate authority. The appropriate authority compared sales of two other properties in the locality for comparison. The appropriate authority referred two sale instances which are identical and subject to similar scrutiny under Chapter XX-C. By the impugned proceedings, the appropriate authority taking into consideration fall in the real estate market between 1997 and 1999 concluded that the subject-matter of the property was 38.6 per cent lower compared to the land rate as per sale instance No. 1 and even if fall in price between 7/97 to 2/99 assuming to be far steeper rate of 15 per cent per annum, the sale rate of the subject property is 28.89 per cent lower compared to the estimated market rate and for reasons recorded, the appropriate authority concluded that the apparent consideration for the transaction after discounting under rule 48L is lower by 38.6 per cent than the fair market value of the property.

11. In exercise of powers vested in the said authority u/s 269UD(1), ordered purchase of the property by the Central Government for consideration of Rs. 27,60,670. The authority further directed that in terms of section 269UE(1) the property shall vest in the Central Government from the date of passing of the order and called upon the transferor and transferees to surrender possession of the property within fifteen days from the date of service of the order. Being aggrieved, the present Writ Petition No. 9793 of 1999 has been filed by the transferor while W.P. No. 9956 of 1999 has been filed by the transferees.

12. Mr. R. Krishnamurthy, learned senior counsel leading the challenge contended that the exercise of power under Chapter XX-C by the first respondent-appropriate authority is illegal, arbitrary, violative of the statutory provision in that the appropriate authority has failed to take into consideration of the following aspects :

(A) The property is tenanted since 1985 (purchasers being the tenants);

- (B) There is no direct access from the main road;
- (C) The location of the property is in a lane or a small street, entry of which is inconvenienced by U-turn and the fly-over;
- (D) The location is not an ideal place;
- (E) There was pressing necessities to sell since the wife and daughter initiated action for maintenance and marriage expenditure and a settlement was arrived at;
- (F) The property has no commercial use or value;
- (G) The real estate market has gone down during 1998-99 and market of residential properties were going down and in low eb;
- (H) Multi-storeyed Building is not permissible in the Street in terms of CMDA and Corporation Rules;
- (I) The tenant is in occupation and no chance of getting possession if the property is sold to a third party and therefore the tenant alone has come forward to purchase and the owner has to bargain the price which is a fair market value and that there is no material to conclude that the apparent consideration agreed to is lower by 38.6 per cent as concluded;
- (J) Two sales have been taken as comparative sales which were the subject-matter of proceedings under Chapter XX-C and the same should not have been taken into consideration;
- (K) Two sales which the petitioner has relied upon has not been taken into consideration and ignored. The failure to take into consideration of the above aspects vitiates the proceedings passed by the first respondent and the same is liable to be quashed by this court in exercise of powers of judicial review conferred by article 226 of the Constitution.

13. Mr. Lakshmi Narayanan learned counsel appearing for the petitioner (Transferee in W.P. No. 9956 of 1999) contended that the appropriate authority has acted without jurisdiction in invoking the powers under Chapter XX-C as according to him, the agreement entered between the transferor and transferees cannot be subjected to an action under Chapter XX-C since the transferor and the transferees have entered into the agreement to complete the transaction within a period of fourteen weeks from the date of agreement and therefore section 269UD(1) has no application. In other respects, Mr. Lakshmi Narayanan, adopted the arguments advanced by Mr. R. Krishnamurthi, learned senior counsel.

14. Mr. Naresh Kumar, learned standing counsel appearing for the respondents contended that every aspect referred to had been taken into consideration and after due consideration, the appropriate authority has exercised its powers to order pre-emptive purchase. It is also contended that the order is not liable to be interfered as it is not vitiated by illegalities or error apparent on the face of the

record or misdirection and this court will decline to interfere under article 226 as no case has been made out for interference. The learned standing counsel also cautioned that remedy of judicial review cannot be equated to a remedy of appeal and contended that the order passed by the appropriate authority is not liable to be interfered. Mr. Naresh Kumar also relied upon the following pronouncements :

- (i) Devesh Behari Saxena Vs. Dy. Commissioner of Income Tax and Another, ;
- (ii) In the Matter of the Appropriate Authority and Another Vs. Smt. Sudha Patil and Another, ;
- (iii) Ramesh Bhai J. Patel Vs. Union of India, ;
- (iv) Union of India v. Shatabadi Trading & Investment (P) Ltd. (2001) 251 ITR 933 in support of his contentions.

15. Mr. T.R. Rajagopalan, learned senior counsel appearing for the wife and daughter of the transferor while pointing out the pathetic condition of the wife and the unfortunate position of the daughter who is yet to be given in marriage for want of funds and they have been denied of payment of maintenance have come before this court seeking for a direction to deposit the money due to them as they have no other alternative since the only property owned by the transferor has been ordered to be purchased under Chapter XX-C. A ex parte decree has also been passed at the instance of the wife and daughter against transferor and therefore the amount that is acknowledged as due to them should be directed to be paid out to the said two or a suitable direction be issued in this respect in the event of this court sustaining the order passed by the competent authority. While pointing out the miserable condition in which the wife of the transferor is placed and undergoing chemotherapy and radiation treatment for cancer is suffering a lot for want of funds and they should be alleviated from the miserable condition and any delay will result in the said two, namely the unfortunate wife and daughter of transferor may have to suffer further.

16. On consideration of the impugned proceedings and the rival contentions, the following points arise for consideration :

- (A) Whether the order passed by the first respondent-appropriate authority under Chapter XX-C is vitiated on one or more of grounds advanced by the petitioners?
- (B) Whether the action of the appropriate authority is without jurisdiction?
- (C) Whether the order of the appropriate authority is liable to be interfered in exercise of judicial review under article 226?
- (D) To what directions the unfortunate wife and daughter of the transferor are entitled to?

17. Before taking up the contentions, it is essential to examine the scope and

powers of exercise of judicial review by this court under article 226 in respect of the order of purchase passed by the appropriate authority under Chapter XX-C of the Income Tax Act. The power of Judicial Review in such matters was the subject-matter of consideration before a Division Bench of this court as well as the Supreme Court which are binding has to be followed.

18. In *Appropriate Authority and Another Vs. Kailash Suneja and Another*, , Rajendra Babu, J., speaking for the Bench held thus :

"It is no doubt true that the scope of interference under article 226 of the Constitution is very limited, but that is only in the nature of a judicial review of the proceedings and not by way of appeal or revision where the scope of interference is much wider. In cases of the present nature where several methods are available for finding out the value of the property, and if one or the other method is adopted by the department and that may be reasonable, it may not call for any interference. However, if there are loopholes or lacunae in the process of reasoning adopted by that authority in reaching the conclusion as in the present case that the tenanted property would be vacated soon or that the property is close to the vicinity of the situation of the subject property if compared, adopting different methods of valuation, then the parties who appear before the authorities will definitely have a reason to have heartburn. If one method of valuation is adopted and benefit is given to one party then why that method is not adopted in the other case to reach the conclusion the other way is not clear and in our opinion it is unjustifiable. If in this background the High Court examined the matter and arrived at a conclusion one way or the other, we do not think it is necessary for us to interfere with that finding in a proceeding arising under article 136 of the Constitution." (p. 6)

19. The said pronouncement has been followed in *Appropriate Authority and Another Vs. R.C. Chawla and Others*, and it has been held that "the well known principles of administrative law being that if the relevant factor is ignored the order may become vitiated has to be applied if the facts of the case warrants." Again in *Shatabadi Trading & Investment (P) Ltd.*'s case (supra), the Apex Court laid down that "It is trite to say that the proceedings arise under article 226 of the Constitution are in the nature of judicial review and such review could be only in respect of the process of decision and not the decision itself." The Apex Court held thus :

"This court in *In the Matter of the Appropriate Authority and Another Vs. Smt. Sudha Patil and Another*, , held that merely because no appeal is provided for against the order of the appropriate authority directing the compulsory acquisition by the government, the supervisory power of the High Court would not get enlarged nor can the High Court exercise an appellate power while examining the correctness of the conclusion arrived at by such Tribunal. On the materials, if two views are possible, even then it would not be possible for the High Court to substitute its conclusion for that of the Tribunal. It is trite to say that the proceedings arising under article 226 of the Constitution are in the

nature of judicial review and such review could be only in respect of the process of decision and not the decision itself. . ." (p. 97)

20. In Smt. Sudha Patil's case (supra), G.B. Pattanaik, J., speaking for the Bench held thus :

"So far as the first question is concerned, the parameters for exercise of supervisory jurisdiction of the High Court under article 226 of the Constitution, while examining the decision of an inferior Tribunal, has no connection with the question whether an appeal is provided for against the said order of the Tribunal under the statute in question. As has been held in several decisions of this court, the power being supervisory in nature, in exercise of such power, a finding/ conclusion of an inferior Tribunal can be interfered with if the High Court comes to the conclusion that in arriving at the conclusion, the Tribunal has failed to consider some relevant materials or has considered some extraneous and irrelevant materials or that the finding is based on no evidence or the finding is such that no reasonable man can come to such a conclusion on the basis of which the finding has been arrived at..." (p. 127)

21. The same Bench emphasised that merely because no appeal is provided for against an order of the appropriate authority directing compulsory acquisition by the government, the supervisory power of the High Court does not get enlarged, nor the High Court exercises the appellate power.

22. In the light of the above pronouncements, this court has to examine the contentions advanced by the counsel or the petitioners in exercise of powers of judicial review while cautioning itself that this is not an appellate forum, but it is exercising the power of judicial review.

23. At the outset it is essential to point out that there is no complaint of procedural violations or violation of principles of natural justice in passing the impugned proceedings by the competent authority. It is fairly stated that the first respondent-appropriate authority has followed the procedure prescribed under Chapter XX-C of the Income Tax Act.

24. The appropriate authority considered two relevant and comparable sale transactions (1) the Agreement dated 14-7-1997 in respect of Door No. 21, Srinivasamurthi Avenue, Adyar, Chennai-20 and the land area being 4370 sq.ft. building area 3124 sq.ft. On the basis of admitted sale consideration of Rs. 63 lakhs the land value worked out to Rs. 32,89,000 per ground. (2) The agreement dated 20-9-1998 in respect of Door No. 42, II Main Road, Kasturba Nagar, Adyar, Chennai-20 and the land area being 8795 sq.ft. and building area 2845 sq.ft. The admitted sale consideration being 1,14,00,000 it works out to Rs. 30,06,000 per ground on the basis of scrap value of the building.

25. The property in question is Door No. 3, Krishnamachari Avenue, Adyar, Chennai-20. By all standards the subject property and the two relevant and comparable sale transactions are located in the same locality and it is not being

pointed out that those two properties are located in different localities with better advantages or better situation. The width of the street is practically the same in respect of Item No. 1. So also Item No. 2. The said two items also are not commercial buildings, nor they are located in a commercial locality like the subject-matter. Merely there is a traffic meridian or traffic regulations or U-Turn traffic regulation in force to reach the property, it cannot be stated that the subject property is inferior in any way to the two comparable sales. The traffic regulation or restriction would in other words show that the subject property is located very near to the Main Road where there is heavy traffic which would mean the subject property commands more demand than the two comparable sales.

26. It is rightly pointed out by the competent authority that the comparable sale No. 1 as well as the subject property are located in the adjacent parallel roads starting from the busy Latiz Bridge Road and practically, there is no difference between the two properties. This reasoning of the appropriate authority being factually correct and not being disputed, deserves to be sustained.

27. Taking up the next aspect, the subject property, it is a fact is located on wider Road of 29/6" width and it is a residential area. In terms of the governing regulations approved by the CMDA, whatever potentialities comparable sale Item No. 1 has, the subject item too commands. There is not much difference of the size of the two plots and they are located in the residential zone and being comparable properties in every aspect, the contention that comparable Item No. 1 could be developed as a multistoried building or a complex could be built, will not stand to the test of reasoning. This point do not deserve any further consideration.

28. As regards the accessibility and development also Sale Item 2 is located in a wider road having 40 feet width, it has access from both the sides in the nearby residential locality, the extent of the property being 8795 sq.ft. and therefore it is pointed out that Item No. 2 has lot of potential to develop into a complex. Assuming for the purpose of argument that such a contention could be sustained, there is no reason at all to reject the Item No. 1 taken up for comparison. Mere potentiality alone cannot be the criteria to decide the existing market value and such potentialities depends upon the capacity of the investor, the demand and the other facilities the locality commands in identical localities, there is no reason at all to view the two properties differently.

29. It was nextly contended by Mr. R. Krishnamurthi, learned senior counsel that there was a downward trend or slump in the real estate market and therefore the price as agreed to by the transferor and the transferees cannot be field to be too low. In this respect the appropriate authority has taken note of the slump in the real estate market and it is not as if it was in its peak during the relevant period. Yet, after giving credit to the rate of fall in price, for the years in question, namely 1997-98 as well as 1998-99, i.e., spread over a period of 19 months, the Committee in its view has rightly accepted the general short fall or slump in price

in real estate, in its estimate allowed a fall in price at 12 per cent and on that basis also it has been rightly pointed out that the sale value is lower by 38.6 per cent when compared to the land rate worked in para 5 of the order. So the competent authority has taken note of the fall in real estate market between 1997-98 and it has not omitted to consider this aspect of the matter. The contention advanced in this respect do not deserve any further consideration, nor the order of the appropriate authority is liable to be interfered on this ground.

30. Mr. R. Krishnamurthi, learned senior counsel nextly contended that the appropriate authority has rejected the two sales relied upon or referred to by the transferor and transferees to sustain their contention that the price agreed to is a fair value. Door Nos. 14 and 15, Srinivasmurthi Avenue, Adyar, Chennai-20 which consisting of a flat of plinth area of 1246 sq.ft. and third floor of the building together with 8.57 per cent undivided share in the land measuring 8100 sq.ft. was the subject-matter of sale. The sale consideration in respect of the said instance was Rs. 9 lakhs and the cost of the land has been arrived at Rs. 4,37,327.10 based upon guideline value fixed for the locality. The guideline value cannot be the sole criteria. What has been the subject-matter of the transaction relied upon by the transferor and the transferees being undivided share and a flat which was not the subject-matter of any scrutiny under Chapter XX-C, but being a fractional interest of the land and being a flat, it has been rightly rejected and they will not stand a comparison. In respect of one another sale relied upon by the transferor it has been rejected as they do not have any relevance of comparison. Therefore the two sale transactions relied upon by the transferor and transferees also have been considered and rejected for valid reason.

31. Incidentally, it was contented that the subject locality is very low where water stagnates during rainy season. This aspect has also been considered by the first respondent and it has been rejected as the subject property is located in a dead end street and rejected the same. Every aspect of the matter which is highlighted by the transferor and transferees were considered and rejected rightly for valid reason. For reasons assigned, the appropriate authority had declined to sustain the objections and rightly too.

32. Mr. R. Krishnamurthi, learned senior counsel further pointed out that there is compelling necessity, therefore the sale was entered with the tenant in occupation. On one hand such a contention is advanced and on the other hand the transferor contends that he is not aware of the decree at all, besides pointing out that it has taken steps to set aside the decree.

It is not open to the petitioner to advance such a plea. It is true as seen from the papers placed before the court on 29-1-1998 the first additional family court, Madras has granted an ex parte decree against the transferor directing him to pay Rs. 1,30,000 towards past maintenance to his wife besides directing him to pay Rs. 10,000 per month towards future maintenance. On 9-1-1998, the family court in O.S. No. 31 of 1997 directed payment of Rs. 10,00,000 towards marriage expenses of Vandana Venkat, the only daughter of the transferor.

33. The suit is of the year 1997. The subject-matter of agreement in question was entered on 10-2-1999. But till then, neither the amount has been paid, nor an execution petition has been levied. It is admitted that the wife and the daughter of the transferor have secured decree, but they have not proceeded as presumably it was on assurance to settle and it was not as if there has been any compulsion or compelling necessity to dispose of the property without granting time. In fact the recital in the sale agreement stipulated that a sum of Rs. 17,00,000 to Mrs. Prabha Venkatachalam. As seen from the fact it is clear that even today the daughter and the wife of the transferor is yet to realise the amount and they are before this court seeking for a direction. The wife and daughter have been caught between the transferor and the appropriate authority and their condition is pathetic or miserable. Yet, so far they have not realised a pie. The contention that it was a distress sale has not been accepted. It may be that a claim was pending on the date and a decree has been passed. But the transferor was not under compulsion at all and it is not as if the wife and the daughter have taken some hasty action.

34. The appropriate authority has rightly taken the view that the sale is not a distress sale. It may be that the transferor was taking steps to settle the claim of his wife and daughter. But it cannot be said that there was pressure, much less, mounting pressure on the transferor and it cannot be held that it is a distress sale and the view taken by the appropriate authority is not liable to be interfered.

35. It is not as if the litigation related to the property where there is some difficulty with respect to the transferor's title. But the litigation is in respect of maintenance claim and marriage expenses. That ipso facto cannot be said that it is a litigation with respect to title of the transferor.

36. As regards the transferor and transferees being landlord and tenants of the same premises, it was contended that the tenants are in occupation and therefore the transferor, owner of the subject property could not get a higher price than what was agreed. In this respect the lease deed was not produced and it was the claim that it is a oral lease as seen from the objection. There is nothing to show that the tenancy was earlier in point of time or prior to 16-6-1998 as the transferor has not filed the return of income acknowledging the rental income for the assessment years 1997-98 and 1998-99. From the documents produced it cannot be said that there was a tenancy or the premises was under tenancy occupation of the transferees.

37. It is rightly pointed out that certain clauses in the agreement runs counter to the claim of tenancy by the transferor and there is nothing to indicate the tenancy. Even in the Form 37-I filed by both sides seeking the permission in column-6, it was stated that there is no lease or other encumbrances.

38. In the present case the tenancy is being claimed by the transferees themselves. As regards the claim of tenancy, this aspect has been taken into consideration and rightly rejected as it is not the case of the transferor and

transferees that substantial amount has been paid as advance. The oral lease is in contradiction to the recitation in the agreement to sell dated 10-2-1999 signed by the transferor and transferees.

39. The agreement between the transferor and the transferees and Form 37-I nowhere discloses the earlier relationship of landlord and tenant between the transferor and the transferees. The recital in the sale agreement which has been rightly pointed out do not reflect any existing tenancy. Had there been a tenancy as rightly pointed out by the competent authority, the transferor and transferees would not have failed to provide the stipulations in this respect in the agreement. The transferees are resident of different place and there is nothing to show they were in occupation as tenants at the material point of time. In the agreement as well as Form filed will belie the claim of tenancy. This is a valid reason for the appropriate authority rejecting this contention of the tenancy and therefore this contention also fails.

40. Nextly, it was contended that the area is congested or polluted and therefore it did not attract a fair price. This aspect has been rightly considered and rejected while pointing out that there is neither pollution, nor there is traffic disturbance. Nor there is automobile pollution or traffic pollution as the property is located about 300 feet away from the L.B. Road. The comparable sales relied on by the competent authority is identically located be it the same advantage or disadvantage. This is a relevant consideration which has rightly weighed with the appropriate authority. This aspect has also been taken into consideration and it cannot be said that the appropriate authority has failed to consider.

41. The appropriate authority has considered all the objections and it is not as if it has either not adverted to or failed to consider the objections. On a comparison of the two sales which is comparable in all respects the appropriate authority has come to the right conclusion that the presumption drawn by it as detailed in the show-cause notice stands unrebutted and this is a fit case where it should exercise pre-emptive right to purchase the schedule property under transfer at an amount equal to the amount of discounted consideration for the reasons discussed in its order. The findings that the apparent consideration is lower by 38.6 per cent than the fair market value of the property is not liable to be interfered as the authority has taken into consideration every objection raised by the transferor and transferees and overruled those objections and the reasons in this respect cannot be termed as perverse or arbitrary. Therefore this is not a fit case where this court would be justified in interfering with the order of the appropriate authority in exercise of its powers of judicial review. While following the above pronouncements of the Supreme Court, this court holds that the order of the appropriate authority is not liable to be interfered.

42. Incidentally, the counsel for the transferees has raised the question relating to the jurisdiction which contention is a misreading of the provision and it cannot be sustained. Merely because the agreement stipulates a lessor time it cannot be said Chapter XX-C cannot be invoked when the transaction relating to the value

of the subject property squarely attracts the said Chapter XX-C.

43. For the purpose of Chapter XX-C appropriate authority having due regard to the object of the Chapter and having taken into consideration of the relevant reports and all materials available rightly overruled the objections. The method of valuation by the appropriate authority in this case, on the facts, it is clear is a fair market value and it has been arrived at justly and reasonably considering comparable instances of sales in the next street and in the same locality and identical in all respects. Therefore, on the facts, this court holds that the proceedings of the appropriate authority is not liable to be interfered.

44. There were sufficient materials before the competent authority on the basis of which it was justified in holding that the consideration stated in the document had not been truly stated and there is materials to show that the parties by the transaction were seeking to reduce or evade the transferor's liability for tax in respect of any income arising from the transfer and there is an attempt to conceal the income or money which they have failed to disclose. There was comparable sale in the very area and the reasons assigned by the appropriate authority are cogent and not liable to be interfered.

45. Thus in any view of the matter all the contentions advanced by the learned senior counsel Mr. R. Krishnamurthi has to be negated and no case has been made out for interference. The writ petitions are dismissed. No cost.

46. As regards the direction petitions filed by the wife and daughter of the transferor, there is every justification to issue a suitable direction in this respect to the appropriate authority so that the wife and daughter would not suffer any longer. In fact the very agreement entered between the transferor and transferees provides for payment of seventeen lakhs of rupees to the wife. The amount is lying in deposit and earning interest also and there is no dispute that the consideration is in deposit as provided for and it is fairly admitted by either side. The implead petitions are ordered as prayed for and direction petitions are ordered as stated herein.

There being no dispute as to the liability of the transferor to his wife and daughter, this court directs the appropriate authority to forthwith pay the sum of Rs. 17,00,000 (Rupees Seventeen Lakhs) with proportionate interest on the said sum earned by virtue of deposit till date and as detailed in WMP No. 16383 of 2000 in W.P. No. 9793 of 1999 to the said Mrs. Prabha Venkatachalam and Ms. Vandana Venkat directly, who shall file separate satisfaction memo in the two suits. The said amount shall be paid within two weeks from the date of communication of a copy of this order. Such a direction is given as the wife require funds for her treatment immediately and by paying the sum, the liability of the transferor also discharged in a manner known to law. The balance of the amount alone shall be paid to the transferor or transferees, as the case may be.

47. In the result, both the writ petition are dismissed as points A to C are answered against the petitioners and point D is answered in favour of wife and

daughter of transferor. The other connected WMPs are consequently ordered as above. No costs.