(2020) 02 MP CK 0115

In the Madhya Pradesh High Court

Case No : Writ Petition No. 19211 Of 2019

M/S Rukmani Retail Pvt. Ltd APPELLANT

Vs

State Of Madhya Pradesh And Others RESPONDENT

Date of Decision : 20-02-2020

Acts Referred:

Citation : (2020) 02 MP CK 0115

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : V.K. Jain, Adarsh Jain, Lokesh Mehta

Final Decision : Disposed Of

Judgement

It is jointly pointed out that respondent No.2 is not contesting party.

Shri D.S. Panwar, learned counsel for respondent No.3.

Heard.

By this petition the petitioner has challenged the order of the Collector of Stamps dated 31.8.2016, whereby the petitioner has been required to pay the

stamp duty treating the period of lease to be more than 30 years i.e. 99 years. The petitioner has also challenged the order of the Board of Revenue

dated 14.6.2019, whereby the revision petition against the order of the Collector of Stamps has been dismissed.

In nutshell, the facts are that the respondent No.3 had executed the lease deed in favour of the respondent No.2 on 4.5.1989 for Plot No.483 and 484,

area 25,000 sq.mtr. in Industrial Growth Centre, Sector-3, Pithampur. The said plot was auctioned in course of time by IFCI Bank and was purchased

in auction by the petitioner, hence the AKVN had executed the amended lease deed dated 6.5.2014 in favour of the petitioner mentioning that the period of lease may be read as 30 years instead of 99 years. The Collector of Stamps while levying the stamp duty has treated the period to be more

than 30 years and has accordingly levied the stamp duty at the market rate for that period. The dispute has arisen because if the period of lease is

treated to be 30 years, then the stamp duty and other charges payable will be on the lower side. This order of the Collector of Stamps has been

affirmed in Revision.

Learned counsel appearing for the petitioner submits that the lease is only for a period of 30 years, therefore, Collector of Stamps had no jurisdiction to

treat it to be for a period more than 30 years. He further submits that the AKVN had also clarified the position about the period of lease and the

Collector himself is not sure about the period of lease and the Sub Registrar had treated it to be for 30 years and had accordingly submitted the report

before the Collector of Stamps.

Learned counsel for the State opposing the petition submits that it is not a fresh lease but it is a lease amending the earlier lease which was for a

period of 99 years, therefore, after issuing show-cause notice, the collector has rightly calculated the stamp duty treating the period of lease to be

more than 30 years.

Having heard the learned counsel for the parties and on perusal of the record, it is noticed that though the earlier lease in favour of the respondent

No.2 was for a period of 99 years but when after purchase of the lease hold right by the petitioner, lease was transferred and amended lease was

issued by the respondent No.3 AKVN on 6.5.2014, at that time the period of lease was restricted to 30 years and accordingly it was mentioned in the

amended lease that the period of lease may be read as 30 years instead of 99 years. Since word â??mayâ? used in the amended lease had created

some confusion, therefore, the AKVN had sent the clarification dated 20.5.2016 making it clear that the amended lease is only for a period of 30

years. Before this Court also the AKVN has filed the reply making it clear that the lease was granted for a period of 30 years. The stand of the

AKVN in the reply dated 18.2.2020 filed before this Court is as under:-

â??7. That, the answering respondent have by its letter dated 17/3/2016 (Annexure P-4 at page 20 of petition) and by letter dated 20/5/2016

(Annexure P-5 page 21 of petition) clarified that the period of lease will be read as 30 years. However, either the Collector of Stamps nor the Board

of Revenue appear to have appreciated the clarification letters submitted by the answering respondent in the right perspective of the intention of the

answering respondent conveyed in lease deed amendment and its letter with regard to period of lease to be 30 years.

8. That, the answering respondent submit and clarifies that it has granted lease for period of 30 years. The present reply may kindly be taken on

record and appropriate orders as deemed fit may kindly be passed for adjudication of the controversy involved in the present petition. Affidavit is

annexed in support.â??

Having regard to the aforesaid, it is clear that the lease by the AKVN in favour of the petitioner is only for a period of 30 years. The Collector of

Stamps, therefore, has committed an error while passing the order dated 31.8.2016 and treating the period of lease to be more than 30 years. The

similar error was committed by the Board of Revenue, who had simply reiterated the conclusion arrived at by the Collector of stamps.

In the aforesaid circumstances, the order of the Collector of Stamps dated 31.8.2016 and Board of Revenue dated 14.6.2019 cannot be sustained and

are hereby set aside by directing the Collector of Stamps to calculate the stamp duty and other charges payable in accordance with law treating the

period of lease to be 30 years.

Writ petition is accordingly disposed off.

C.C. as per rules.