**(2011) 09 P&H CK 0205**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Civil Writ Petition No. 16413 of 2011 (O and M)

Naveen Kumar and another APPELLANT

Vs

State of Haryana and others RESPONDENT

**Date of Decision :** 08-09-2011

**Acts Referred:**

Registration Act, 1908 — Section 17, 2(12), 47A

**Citation :** (2012) 2 ILR (P&H) 102 : (2011) 164 PLR 634 : (2012) 2 RCR(Civil) 25

**Hon'ble Judges :** K. Kannan, J

**Bench :** Single Bench

**Final Decision :** Dismissed

## Judgement

K. Kannan, J.—In a suo motu enquiry undertaken by the Collector u/s 47-A of the Registration Act, the Collector demanded additional stamps as payable by taking the value of the property as per Collector''s rates on the date of registration and refusing to allow the date of execution of the agreement of sale as the relevant date for determining the value of the property. The Collector, while rejecting the plea of the petitioner that the value of the property was what was stated in the Sale Deed which was in pursuance of a decree for specific performance, relied on the judgment of the Hon''ble Supreme Court in State of Rajasthan and Others Vs. Khandaka Jain Jewellers, to hold that the valuation shall be taken only as on date of registration.

2. The learned counsel argues that this Court has consistently taken a view that whenever a decree is obtained for specific performance for sale of an immovable property, the value of the property as stated in the decree alone shall be treated as relevant and the Collector''s valuation as on date of registration is not relevant. He would also contend that the market value itself will be calculated only on the basis of what is struck as a bargain between parties and the Collector''s circle rate cannot afford such a basis.

3. The counsel relies on the decision reported in Manoj Kumar v. State of

 

Haryana and others, (2008) 150 P.L.R. 84, where the Division Bench has held that a price given in the Transfer Deed in a decree for specific performance ought to be accepted by the Registering Authority without doubting the authenticity of sale consideration, because the authenticity of a decree passed by a Court itself cannot be questioned. The reference to this judgment is inappropriate, since the Hon''ble Supreme Court has expressly set aside the judgment and has held it to not lay down the correct law in State of Haryana and Others Vs. Manoj Kumar, Supreme Court Cases 350. This judgment emphatically lays down the effect of valuation as given in decree for specific performance cannot overrule the valuation as given in the circle rates.

4. The judgment of the Supreme Court in State of Rajasthan case v. M/s Khandaka Jain Jewellers (supra), referred in the order of the Collector above has laid down two important propositions: (i) the date which is relevant for determining the market value of the property is the date of registration and (ii) it is irrelevant that the by the long pendency of litigation, there is a long time gap between the consideration as stated in the agreement and the value as appreciated at the time of conclusion of court proceedings when the document is brought for registration. The Hon''ble Supreme Court was accepting the plea of the State that whatever may be the consideration for the vendor or the vendee, the State is entitled to collect its revenue on the basis of market rate at the time of registration as per Section 17 of the Registration Act. The arguments which weighed with the Hon''ble Supreme Court is reflected in para 7 of the judgment. While expanding on the reasoning given for holding that the time of registration alone is relevant, the Court culled out the entire Section 47-A and held as follows:-

The contention of the learned counsel for the State that as per Section 17 of the Act, the market value has to be taken into consideration because Section 17 stipulates that all the instruments chargeable with duty and executed by person of India shall be stamped before or "at the time of execution". The word "execution" has been defined in Section 2(12) of the Act which says that "Execution" used with reference to the instruments, mean "signed" and "signature". Therefore, it shows that the document which is sought to be registered has to be signed by both the parties. Till that time the document does not become an instrument for registration. A reading of Section 2(12) with Section 17 clearly contemplates that the document should be complete in all respects when both the parties should have signed it with regard to the transfer of the immovable properly. It is irrelevant whether the matter had gone in for litigation.

The Hon''ble Supreme Court further reaffirmed the reasons as to how the date of registration alone is necessary when it said,

......... The crucial expression used in Section 17 is "at the time of execution". Therefore, the market value of the instrument has to be seen at the time of the execution of the sale deed, and not at the lime when agreement to sale was entered into.

In this background, if we construe Section 17 read with Section 2(12) then there is no manner of doubt that at the time of registration, the Registering Authority is under an obligation to ascertain the correct market value at that time, and should not go by the value mentioned in the instrument.

5. Both as regards the primacy of consideration of the Collector''s circle rate and the date of registration for determination of the valuation of the property, over the valuation as stated in the Civil Court decree, the Supreme Courts views referred to in the two decisions conclude the issues and all the decisions of this Court both of Single Bench and Division Benches that hold otherwise are not any longer good law. I find no error in the order passed by the Collector. The writ petition is, consequently, dismissed.