(2010) 01 PAT CK 0049

In the Patna High Court

NLBD Marketing Private Limited — APPELLANT

Vs

The State of Bihar and Others — RESPONDENT

Date of Decision : 14-01-2010

Acts Referred:
Stamp Act, 1899 — Section 47A

Citation : (2012) 2 PLJR 253

Hon'ble Judges : Navaniti Prasad Singh, J

Bench : Single Bench

Judgement

Navaniti Prasad Singh, J.—There was an incorporated Company, namely, Gaya Cotton and Jute Mills Limited. In due course of time, it became sick. Government of India nationalized it by statutory Act. The properties then vested in the National Textile Corporation Limited, a Government of India undertaking. The National Textile Corporation having found that substantial lands were surplus and useless, they issued a global tender for sale of substantial lands of the erstwhile Gaya Cotton and Jute Mills Limited. Petitioner gave his tender and then was called upon to participate in the public auction. Petitioner, in the said public auction, agreed to purchase 29.30 acres of lands at the maximum bid of Rs. 9.02 crores. Thus, having paid the consideration, a deed of conveyance was duly executed and then presented for registration before the Sub-Registrar, Gaya. In purported exercise of powers u/s 47A of the Stamp Act, the Sub-Registrar noticed the petitioner that the value as shown appeared to be far less than value of similar land in similar locality. As per the guidelines, register of minimum value fixed under the Bihar Stamp (Prevention of Under Value and Instruments) Rules, 1995 and unless the petitioner agrees to enhance the value for the purpose of registration and pay duty thereon, the document would not be registered. The matter thus in terms of the Section aforesaid was referred to the Collector of the district, who is the Registrar of instruments as well. The petitioner''s documents not being registered, he was in a precarious position. Having paid a substantial money in a public auction and purchased the property, he could not get the title to the said property and, as such, could not utilize the said property. He has, thus, filed this writ application challenging the action of the State in this regards. The stand of the respondent-State initially was that as per the guideline, minimum registration value (market value) of such a land ought to be about Rs. 19.92 crores.

2. Learned Counsel for the petitioner then pointed out that prima facie this was incorrect and he is not liable for payment of duty on any other value other than as disclosed in the deed of conveyance. He firstly submitted that the value as calculated by the Collector was on basis of the guideline of registration which had twice undergone revision since the transaction and it is those rates subsequently specified which were being taken into account. The second and more pertinent objection was that the guideline of registration fixing market value is only a guideline and the values are calculated on basis of small portions of lands which are sold. That value cannot be taken into account for large chunks of land which is an issue settled by numerous judgments of the Supreme Court in such valuation matters under the Land Acquisition Act. His third and potent objection was that there was no question of under valuation, inasmuch as, the sale had been made by a statutory authority in a public auction and that was the best price that any person offered. Market price would be the price on which a ready seller is willing to sell his property and willing buyer is ready to purchase. That may vary in various contingencies. Reliance was placed on a recent judgment of the Apex Court in the case of V.N. Devadoss v. Chief Revenue Control Officer since reported in 2009 (4) PLJR 52 (SC) wherein under some what similar circumstances, land was sold by statutory authority and a similar plea was taken with reference to Section 47A of the Stamp Act. The Apex Court held that when a statutory authority sells a property then provisions of Section 47A of the Stamp Act would not at all be attracted.

3. In fairness to the learned Counsel for the State, I must note that being confronted with the aforesaid challenges and the ruling of the Apex Court aforesaid, he very fairly conceded that he is unable to sustain the action of the Collector. The deed of conveyance has to be permitted to be registered for the consideration shown therein without reference to Section 47A of the Act.

4. In view of the fair stand taken, it is not for me now to decide various issues as raised which have now become academic. The writ application must thus succeed. Consequently, a writ of mandamus be issued to the respondents not to object to the registered deed for the consideration therein and proceedings with reference to Section 47A are held to be wholly without jurisdiction. Consequently, the Bank guarantee furnished by the petitioner, pursuant to interim orders of this Court, stands duly discharged without any liability.

5. The writ application, thus, stands disposed of.

