
(2022) 09 MP CK 0064
In the Madhya Pradesh High Court
Case No : Writ Petition No. 9263 Of 2017

Purushottam Lal	Vs	APPELLANT
Roopchandra And Others		RESPONDENT

Date of Decision : 07-09-2022

Acts Referred:

Indian Stamp Act, 1899 — Section 2(6), 2(12), 3, 17

Citation : (2022) 09 MP CK 0064

Hon'ble Judges : Vivek Agarwal, J

Bench : Single Bench

Advocate : Shahbaaz Khan, Jitendra Shrivastava

Final Decision : Dismissed

Judgement

Vivek Agarwal, J

This writ petition is filed being aggrieved of order dated 21.02.2017 passed by learned 5th Additional District Judge, Sagar, District Sagar in Execution No.20-A/2008 directing the present petitioner to deposit stamp duty as per current market value of the suit property for its registration in terms of the judgment and decree which was passed on 27.06.2009.

Learned counsel for the petitioners submits that since he is seeking execution of the judgment and decree dated 27.06.2009, therefore, the relevant date for valuation of the property will be 27.06.2009 and not any subsequent date.

Learned counsel for the petitioner places reliance on the judgment of a Coordinate Bench of this High Court in case of Rambabu Agrawal Vs. State of M.P., 2003(3) MPLJ, 151.

Shri Jitendra Shrivastava, learned Panel Lawyer for the State opposes the prayer.

After hearing learned counsel for the parties and going through the record, Section 3 of the Indian Stamp Act, 1899 (hereinafter referred to 'Act of 1899') deals with stamp duties. Section 3 provides that instruments are chargeable with

duty. Thereafter, there is a State amendment.

Issue which is involved in the present petition is chargeability and time of stamping.

In case of *Media Anasuyamma and Another Vs. Choppela Lakshmamma*, AIR 1992 AP 183, it is held that the criteria for chargeability is the date of execution of the document for the purpose of the document being chargeable and be treated as duly stamped. The provisions of Section 2(6), 2(12) and 3 of the Stamp Act, 1899 show that it is the date of execution of the document and not the date of presentation into the Court, i.e. relevant for purposes of stamp duty payable on the instrument. Section 2(6) of the Stamp Act, 1899 define the word "chargeable" reads as under:-

"chargeable, means as applied to an instrument executed or first executed after the commencement of this Act, and as applied to any other instrument, chargeable under the law in force in India when such instrument was executed or, where several persons executed the instrument at different times, first executed."

Section 2(12) of the Stamp Act, 1899 deals with "executed" and "execution", use with reference to instruments, mean "signed" and "signature".

Hon'ble Supreme Court in *State of Rajasthan and Others Vs. Khandaka Jain Jewellers*, (2007) 14 SCC 339, has held that the relevant date for valuation of property for the purposes of Stamp Act is the date of and the time of execution of the sale-deed. It is held that rates of property at the time when parties entered into agreement to sell or at the time when aggrieved party files suit for specific performance of contract, held, irrelevant. It is further held that at the time of registration, if there is undervaluation of property, the registering authority would send the same to the Collector for proper valuation of property. Sale and agreement to sell are two distinct features under Stamp Act. It is further held that High Court's opinion that at the time of registration, the value of property mentioned in the agreement to sell is relevant is not correct approach. Word "execution" read with Section 17 mandates that the instrument has to be seen at the time when it is sought to be registered. Duration of litigation in obtaining a decree of specific performance of contract is not relevant.

In para 24, it is held that while interpreting a taxing statute, inconvenience of the parties is not to be seen. It has to be construed strictly. Hardship or equity have no role to play in its construction. "*Actus curiae neminem gravabit*" i.e. "no person shall suffer on account of litigation". Held, cannot weigh with the court for interpreting the provisions of a taxing statute.

Similar view is taken by the Supreme Court in *A.V. Fernandez Vs. State of Kerala*, AIR 1957 SC 657 in the following terms:-

"29. in construing fiscal statutes and in determining the liability of a subject to tax one must have regard to the strict letter of the law and not merely to the

spirit of the statute or the substance of the law. If the Revenue satisfies the court that the case falls strictly within the provisions of the law, the subject can be taxed. If, on the other hand, the case is not covered within the four corners of the provisions of the taxing statute, no tax can be imposed by inference or by analogy or by trying to probe into the intentions of the legislature and by considering what was the substance of the matter."

Hon'ble Shah, J. has formulated the principle thus :

"11. In interpreting a taxing statute, equitable considerations are entirely out of place. Nor can taxing statutes be interpreted on any presumptions or assumptions. The court must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed: it cannot imply anything which is not expressed: it cannot import provisions in the statutes so as to supply any assumed deficiency."

Therefore, a taxing statute has to be read as it is. In other words, the literal rule of interpretation applies to it.

Thus, in this background when Section 17 read with Section (2)(12) of the Stamp Act is taken into consideration then it is held that valuation of the market value of the property at the time of the registration will be the valuation for ascertaining the stamp duty and not the value mentioned in the instrument, therefore, there is no illegality in the impugned order dated 21.02.2017 (Annexure P-4) passed by learned 5th Additional District Judge, Sagar calling for any interference.

Petition fails and is hereby dismissed.