(2020) 07 RAJ CK 0177

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2073 Of 2020

State Of Rajasthan APPELLANT

Vs

B. Indrachandra Bohra And Ors RESPONDENT

Date of Decision : 21-07-2020

Acts Referred:

Rajasthan Stamp Act, 1998 — Section 65
Constitution Of India, 1950 — Article 226

Citation : (2020) 07 RAJ CK 0177

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : Sandeep Shah

Final Decision : Dismissed

Judgement

This writ petition under Article 226 of the Constitution of India is preferred on behalf of the State being aggrieved with the judgment dated 24.06.2019 passed by Rajasthan Tax Board, Ajmer (hereinafter to be referred as 'the Tax Board'), whereby it has allowed the revision petition preferred on behalf of respondent Nos.1 to 8 and set aside the order dated 29.06.2015 passed by Collector (Stamps), Pali (hereinafter to be referred as 'the Collector').

Brief facts of the case are that a sale-deed came to be executed on 23.07.2012 by respondent Nos. 9 to 18 in favour of respondent Nos. 1 to 8 with respect to a land situated in village Bagawas, Tehsil Sojat for a consideration of Rs. 90,00,000/-. When the sale-deed was presented for registration before the Sub-Registrar, Pali, the market value of the land was determined as Rs.1,16,82,780/- and accordingly the stamp duty and registration fees were determined and paid by the parties concerned.

After registration of the sale-deed, a complaint was filed by one Mr Jaipal Gupta before Sub-Registrar, Pali alleging that a piece of land, for which the sale-deed was executed on 23.07.2012, was of more value than the value shown in the document. It was contended by Mr Jaipal Gupta that for the same land, Binjraj Singh - respondent No.9 executed an agreement to sell on 21.11.2011 for a consideration of Rs.5,60,000/- per bigha, however, respondent Nos. 9 to 18 had sold the land to respondent Nos. 1 to 8 for a less amount. Mr Jaipal Gupta has stated in the complaint that he is ready to buy the land in question at the rate of Rs.5,60,000/- per bigha.

In response to the complaint filed by Mr Jaipal Gupta, a notice dated 03.08.2012 was issued for payment of deficit stamp duty and value of the land was calculated as Rs.2,84,81,600/-. Reply to the notice was filed on behalf of respondent Nos. 10 to 18 stating that no such agreement dated 21.11.2011 was ever executed by them in favour of Mr Jaipal Gupta.

When the deficit stamp duty as calculated was not paid, a reference was made to the Collector, then after hearing the parties concerned, he determined the value of land in question as Rs.2,84,81,600/- and directed the respondents to pay the deficit stamp duty and registration fees vide order dated 29.06.2015.

Being aggrieved with the order dated 29.06.2015, respondent Nos. 1 to 8 preferred a revision petition before the Tax Board under Section 65 of the Rajasthan Stamp Act, 1998 and after hearing the parties concerned, the Tax Board has allowed the revision petition vide impugned judgment dated 24.06.2019, against which this writ petition is preferred.

Learned Additional Advocate General - Mr Sandeep Shah appearing on behalf of the petitioner - State has submitted that the Tax Board has grossly erred in not relying on the agreement dated 21.11.2011 executed by one of the Khatedars in favour of the complainant, Mr Jaipal Gupta. It is contended in the said agreement that the cost of the land was fixed as Rs.5,60,000/- per bigha, wheres in the sale-deed dated 23.07.2012, its cost was shown more less. It is further contended by Mr Shah that in the facts and circumstances of the case, it is proved that in the sale-deed in question dated 23.07.2012, the property was under valued. He has further submitted that the Tax Board has erred in observing that the Collector has proceeded in mechanical manner and has not held any enquiry to determine the actual cost of the land in question.

Mr Shah has further submitted that if the Tax Board was of the view that if the Collector has not conducted proper enquiry, then it would be appropriate for the Tax Board to remand the matter to the Collector for conducting enquiry. Mr Shah has, therefore, prayed that the impugned judgment passed by the Tax Board may be set aside and the order passed by the Collector be sustained or in the alternative, the matter be remanded to the Collector for fresh determination of the actual cost of the land in question after holding necessary enquiry.

Having heard learned Additional Advocate General and having gone through the material available on record, I do not find any illegality in the impugned judgment passed by the Tax Board.

The agreement to sell dated 21.11.2011 was executed by one of the Khatedars of the land and not by other eight Khatedars of the land. It is not in dispute that the agreement dated 21.11.2011 was executed by one of the Khatedars viz. Binjraj Singh but he was not authorized to sell the land on behalf of other Khatedars. The Tax Board has taken into consideration the notice sent by complainant Mr Jaipal Gupta to Binjraj Singh dated 17.01.2012, from which it is clear that he was not authorized to sell the land on behalf of other co-shareres.

It is also not in dispute that except the said agreement to sell dated 21.11.2011, no other material was available with the Collector to come to the conclusion that the cost of the land for which the sale-deed was executed, was more than the market price as calculated by the Sub-Registrar, Pali.

Taking into consideration the overall facts and circumstances of the case, I do not find any merit in this writ petition. Hence, the same fails and is hereby dismissed.

There shall be no order as to costs.

Stay petition also stands dismissed

