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(1999) 09 RAJ CK 0028

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3099 of 1999

State of Rajasthan — APPELLANT

Vs

Gopal Krishan and Others — RESPONDENT

Date of Decision : 06-09-1999

Acts Referred:

Constitution of India, 1950 — Article 227
Rajasthan Stamp Rules, 2004 — Rule 59B
Stamp Act, 1899 — Section 47A

Citation : AIR 2000 Raj 98 : (2000) 1 RLW 83 : (2000) 1 WLC 528

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Advocate : S.S. Bhati, for the Appellant; G.K. Vyas, for the Respondent

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—The petitioner-State of Rajasthan is the same in all these petitions whereas the private respondents are different, and separate orders on different dates have been passed by the Deputy Inspector General, Registration and Ex.-Officio Collector (Stamps), BIkaner calling upon the private respondents to pay up the deficit Stamp duty and separate orders have been passed by the Board of Revenue in all the matters whereby the Board of Revenue accepted the revision petitions filed by the private respondents. The common question of law is involved in all these petitions, therefore, all these petitions are disposed of by this common order.

2. In all these cases, the Deputy Registrar, Registration and Stamps Department, Bikaner submitted applications to the Deputy Inspector General, Registration and Ex-Officio Collector (Stamps), Bikaner (for short ''D.I.G.'') u/s 47-A of the Rajasthan Stamps Act and the Rules framed thereunder stating that the sale deeds executed by the sellers in favour of the purchasers were showing less valuation of the property in the document of the sale deeds than the market value, therefore, the penalty, stamp duty and registration fees be imposed as per

the prevailing market price. In all these cases, the amount varies.

3. In all these cases, notices were ordered to be issued to the concerned authorities and after giving them an opportunity of hearing, the D.I.G. by his impugned orders determined the valuation of the properties and stamp duty and registration fees and ordered to recover the balance amounts from the purchasers.

4. Aggrieved of the said orders, the concerned parties preferred revision petitions before the Board of Revenue which came to be allowed by separate orders and the impugned orders passed by the D.I.G. were set aside and the matter was remanded to the D.I.G. to determine the valuation in the light of the observations made by the Board of Revenue in its judgments.

5. The State of Rajasthan has challenged in these petitions the impugned orders passed by the Board of Revenue by filing separate petitions.

6. Learned standing counsel Mr. S. S. Bhati appearing for the petitioner-State of Rajasthan in all these petitions vehemently submitted that the Board of Revenue committed a grave error in its orders in relying upon the old decisions of the Board of Revenue reported in 1986 RRD page 71 etc. Mr. Bhati submitted that on the insertion of Rule 59-B of the Stamp Rules on 24-4-91, the Board of Revenue should have decided the matters on the basis of the said amended Rule 59-B and the Board of Revenue should not have relied upon its earlier decision of 1986.

Rule 59-B reads as under :--

"59B. The market value shall be assessed by the Registering Officer,'' taking into consideration all facts affecting duty, on the basis of the rates recommended by the District Level Committee as constituted by the Government from time to time or the rates approved by the Registration and Stamps Department from time to time or the highest rate of similar property in Index II, whichever is higher."

7. It is true that prior to 24-4-91, there was no clear provision in the Stamp Registration Rules, therefore, by an amendment dated 24-4-91, Rule 59-B was introduced for assessing the market value of the property. However, the submission of learned counsel Mr. Bhati that the Board of Revenue committed a grave error in calculating the market value on the basis that the purchasers were old sitting tenants of the properties, therefore, the calculation should be different and the market value should be less is wholly wrong. He submitted that this aspect of the case should have been totally overlooked or ignored by the Board of Revenue while passing the orders in view of the amended Rule 59-B of the Rules. I am afraid that this submission of learned counsel Mr. Bhati cannot be accepted for the simple reason that Rule 59-B would not change the reality. The Board of Revenue was very much right in observing that it is always difficult for any landlord to get the possession from the old sitting tenants of the premises and nobody would like to purchase the property with old sitting tenants. It would not fetch even half value of the property. The Board of Revenue has also

considered Rule 59-B in its impugned orders.

8. Having gone through the reasons assigned by the Board of Revenue in its impugned orders, it cannot be said that the Board of Revenue committed any error in passing the same. In my opinion, the Board of Revenue was fully justified in remanding the matter to the D.I.G. for calculating the market value of the properties on the basis of rent capitalisation method.

9. Before parting I must State that this petition is labelled as a petition under Article 226 and 227 of the Constitution but strictly speaking it is a petition under Article 227 of the Constitution, the scope of which is very narrow and limited. As held by the Hon''ble Supreme Court in the case of Mohd. Yunus Vs. Mohd. Mustaqim and Others, that even error of law cannot be corrected by Court in its jurisdiction under Article 227 of the Constitution. In this ease, the Board of Revenue has neither committed error on law nor on facts which calls for interference by this Court in its jurisdiction under Article 227 of the Constitution. The Board of Revenue has given cogent reasons while allowing the revision petitions and remanding the matters to the D.I.G. Even if this Court was inclined to take a different view of the matter, this Court cannot substitute its own decision and reverse the order passed by the Board of Revenue in its jurisdiction under Article 227 of the Constitution.

10. in view of the above discussion, all these petitions fail and are hereby dismissed.

11. Stay petition is also dismissed.

