(2006) 03 AP CK 0080

In the Andhra Pradesh High Court

Case No : Writ Petition No. 2578 of 2006

Tungabhadra Holdings Pvt. Ltd. APPELLANT

Vs

District Registrar and Collector and Another RESPONDENT

Date of Decision : 21-03-2006

Acts Referred:
Stamp Act, 1899 — Section 47A, 47A(1), 47A(5), 47A(6)
State Financial Corporations Act, 1951 — Section 29

Citation : AIR 2006 AP 383 : (2007) 2 ALD 1 : (2006) 2 ALT 746

Hon'ble Judges : Goda Raghuram, J

Bench : Single Bench

Advocate : B. Chandrasen Reddy, for the Appellant; G.P. for Respondent Nos. 1 and 2, for the Respondent

Final Decision : Allowed

Judgement

Goda Raghuram, J.—The petitioner is a private limited company. It seeks direction to set aside the first respondent proceedings in file No. G1/MV/1430/2005, dated 19-1-2006 and for consequential direction to the respondents to release the Sale Deed presented for registration i.e., document No. P-95/2005, dated 1-9-2005 and Rectification Deed dated 23-11-2005.

2. The relevant facts insofar as are relevant for the purposes of this writ petition are:

(a) Pursuant to the directions of this Court in C.A. No. 1285 of 2004 in R.C.C. No. 9 of 2001, dt. 13 -7-2004 the Official Liquidator conducted auction of the entire assets of the company in liquidation i.e., M/s. Nagarjuna Coated Tubes Limited, namely, its lands, buildings, plant, machinery and current assets. The auction was conducted on 11-8-2004.

(b) The auction sale was confirmed in favour of the petitioner and its nominee M/s. Srushti Proprietors by the order of this Court, dated 13-7-2004 in C.A. No. 1285 of 2004 in R.C.C. No. 9 of 2001. This Court by a subsequent order dated

21-4-2005 in C.A. No. 373 of 2005 directed the Official Liquidator to execute the necessary conveyance deed in favour of the petitioner.

(c) The Official Liquidator executed the sale deed in favour of the petitioner on 1-9-2005 and the document was kept pending registration by the respondents in file No. P-95/2005.

(d) On 1 -12-1995 (sic.2005) the second respondent issued a notice u/s 47A of the Indian Stamp Act, 1899 (for short the Act) calling upon the petitioner to pay the deficit stamp duty reckoning the market value of the property differently from what is stated in the sale deed and on the basis of the computation of the current market value. The petitioner submitted his response to the notice on 19-10-2005.

(e) There were some variations in the items conveyed to the petitioner. Initially the land and buildings were included and subsequently machinery was also included and thus the Official Liquidator also executed a rectification deed in favour of the petitioner on 23-11-2005.

(f) The petitioner filed W.P. No. 26104 of 2005 assailing the second respondent''s notice dt. 12-9-2005. In the writ petition the petitioner sought release of the sale deed, dated 1-9-2005 and the rectification dated 23-11-2005.

(g) By the order dated 15-12-2005, this Court disposed of the writ petition directing the petitioner to submit its explanation to the second respondent''s notice dated 12-9-2005 within the stipulated time and on such explanation the respondents were directed to consider and pass appropriate orders in accordance with law, within 10 days.

(h) The petitioner submitted a representation to the respondents on 21 -12-2005. On 28-12-2005 the respondents called upon the petitioner to submit certain documents for verification. The petitioner responded on 29-12-2005.

(i) On 30-12-2005 the first respondent issued orders determining the market value of the property as per the market value guidelines. The proceedings, dated 30-12-2005, were again challenged by the petitioner in W.P. No. 179 of 2006. Eventually, the first respondent passed orders on 19-1-2006 finally determining the market value of the property.

3. The first respondent by the order impugned determined the market value of the property as per the market value guidelines of the Revenue Department and arrived at the value of Rs. 9,42,89,000/-. This determination of value was u/s 47-A of the Act by the first respondent. As against the said determination by the first respondent the petitioner has no doubt available an appellate remedy u/s 47-A(5) of the Act.

4. It is however, the contention of Sri B. Chandrasen Reddy, the learned Counsel for the petitioner that the petitioner need not be relegated to pursue the statutory appellate remedy as the substantive principle involved has already

been determined by the judgment of this Court dated 11-3-1998 in W.A. No. 355 of 1998.

5. The learned Government Pleader for Revenue appearing for the respondents does not contest the position that the substantive legal principles relevant to this is are concluded by the ratio in the judgment of this Court supra.

6. In the above cited precedent, the facts are that the writ petitioner was the highest bidder at the auction held by A.P. State Finance Corporation with regard to the assets of another company which was sold u/s 29 of the State Finance Corporations Act. The sale order was passed in favour of the writ petitioner for a total value of Rs. 25,00,000/- including the plant and machinery. The document of title was sanctioned by the A.P.S.F.C. and there was a due registration of the conveyance of the title. The revenue was however, not satisfied with the value shown in the document which was the value at which the property was purchased in the auction and initiated proceedings disputing the value and seeking payment of deficit stamp duty, u/s 47-A of the Act.

7. The question whether in such circumstances the registering authorities can entertain a rational doubt as to whether the market value of the property has been truly set forth in the instrument fell for consideration by the Division Bench.

8. The Division Bench of this Court held that as the property was sold through a public auction by one of the State agencies, malfeasance on the part of the State agency is not to be presumed and when a State agency itself assented to the registration and presented the document before the registering authority, the question of seeking further clarifications does not arise. It is nobody''s case, implied this Court, that the value as set forth in the instrument is not the true market value nor is a presumption legitimate that the document has been undervalued. As a learned single Judge had expressed the same views and allowed the writ petition, the learned Division Bench concurred with the view expressed by the learned single Judge and dismissed the writ appeal.

9. This Court clearly and categorically held that when a property is purchased, through an auction at the instance of a State Agency then it is not permissible to impeach the value set forth in the instrument of conveyance of title on an assumption that it is not the true value.

10. In the case on hand, the petitioner purchased the properties of M/s. Nagarjuna Coated Tubes Limited, a company in liquidation in an auction through the aegis of the Official Liquidator of this Court and clearly the value set forth in the instrument is a value obtained at such Court auction.

11. It requires to be noticed that after the Judgment of the Division Bench of this Court, the provisions of Section 47-A of the Act have also been amended by insertion of Sub-section (6) by A.P. Act of 1998 with effect from 23-4-1998. By this amendment, it is enacted that for the purpose of the Act, the market value of any property shall be estimated to be the prices which in the opinion of the

Collector or the appellate authority, as the case may be, the said property would have fetched or would fetch if sold in the open market on the date of execution of any instrument referred to under Sub-section (1); provided that in respect of instruments executed by or on behalf of the Central Government or State Government or any authority or body incorporated or by or under any law for the time being in force and wholly owned by the Central or State Governments the market value of any property shall be the value shown in such instrument. Thus the legislative intendment of the provisions of Section 47-A(6) is that due deference and recognition be accorded by the registering authorities to instruments executed by or on behalf of a federal or provincial Government or any authority or body statutorily created or instrumentalities of the State. The legislative presumption is that execution of instruments by these and such authorities must conclusively be presumed to disclose the correct market value of the property sought to be conveyed. There is no reason why such legislative presumption should not enure and be extended also to auction sales conducted by or under the authority of the High Court, in exercise of its statutory powers under the provisions of the Companies Act and through the Official Liquidator.

12. In the light of the Division Bench judgment of this Court dated 11-3-1998 in W.A. No. 355 of 1998 and the amended provisions of the Act, the order of the first respondent dated 19-1-2006 is unsustainable; is quashed; and the writ petition is accordingly allowed. The respondents are directed to "release the Sale Deed and the Rectification Deed dated 1-9-2005 and 23-11-1005 in favour of the petitioner after due registration. No order as to costs.