(2017) 07 AP CK 0027

In the Andhra Pradesh High Court

Case No : 21985 of 2007

Uppu Yanaiah APPELLANT

Vs

The Chief Controlling Revenue Authority and Commissioner & Inspector General RESPONDENT

Date of Decision : 12-07-2017

Acts Referred:
Stamp Act, 1899, Section 47A, Section 41A

Citation : (2017) 07 AP CK 0027

Hon'ble Judges : A. Ramalingeswara Rao

Bench : SINGLE BENCH

Advocate : V.S.R. Anjaneyulu

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and learned Government Pleader for the respondents.

2. The petitioner states that he purchased an extent of Ac.1.42 cents of seri dry land situated in R.S.No.538/1 of Lakshmipuram village for an amount of Rs.1,28,000/- under a registered sale deed dated 28.07.1999. While so, the second respondent issued a notice on 12.03.2001, invoking the provisions of Section 41-A of the Indian Stamp Act, 1899 (for short the Act), stated that the market value of the property was wrongly shown and the correct value of the property would be Rs.10,30,920/- and thus there is a deficit stamp duty to a tune of Rs.1,13,406/-. The petitioner after receipt of the said notice submitted a detailed representation disputing the determination of the market value. He further raised an objection that there was no basis shown for fixing the market value. Without considering the same, the second respondent passed an order on 12.03.2001 holding that the stamp duty of Rs.1,03,821/- is payable on the document. Challenging the same, he preferred an appeal before the first respondent. The first respondent dismissed the appeal by order dated

17.03.2004, challenging which the present Writ Petition is filed.

3. The first respondent filed a counter stating that the market value guidelines registers maintained in the offices of the Sub-Registrars are having statutory cover under Section 47-A of the Act and accordingly the order of the second respondent was proper. It was further stated that in respect of the property situated in RS Nos.537/1 to 540/2 at Ramnagar of Lakshmipuram village of Challapalli Mandal, the value of the property was fixed at Rs.44,000/- in 1988 and subsequently enhanced to Rs.99,000/- per acre in the year 1990. The said value was further revised in the year 1993 and was enhanced to Rs.7,26,000/- per acre, but the stamp duty was collected at Rs.90,000/- per acre by the third respondent. Since the land involved in the present transaction pertains to Survey No.538/1 of an extent of Ac.1.42 cents, the value at Rs.7,26,000/- per acre should have been fixed and the total value works out to Rs.10,30,320/- on which a stamp duty of Rs.1,13,406/- is payable. But the Sub-Registrar failed to verify the basic register and the loss of revenue was detected during the spot inspection of the documents registered pertaining to Lakshmipuram village. During the spot inspection, the second respondent with the assistance of the VAO identified the property with the revenue records such as Adangals, village accounts and relevant accounts and it was noticed that the land was situated on Western side of Ramanagaram Road and the 7th Block of Lakshmipuram major Grampanchayat is situated on the other side of the road. Though the land was being used as an agricultural field, it was vacant at the time of the visit and there was no standing crop, but it has future potentiality of being converted into house plots in view of the land in 7th Block of Lakshmipuram Grampanchayat being contiguous to the property covered by the document. The fixation of market value of particular property is based on the past transactions, future potentiality of that area and open auctions made by the Government etc. The present document was registered after six (6) years from the date of revision of market value.

4. The second respondent filed a separate counter stating that during the course of annual inspection it was noticed that the document No.1153 of 1999 was registered with deficit stamp duty and therefore the first respondent issued instructions on 10.05.2000 directing the District Registrar, Krishna to determine and collect the stamp duty under Section 41-A of the Act. The guiding factor for collection of the stamp duty is the market value guidelines register, which register contains the value of the property of the entire area falling within the jurisdiction of the Sub- Registrar. In respect of the property situated in Survey No.538/1 of Lakshmipuram village the market value was fixed and recorded in the market value guidelines register at Rs.7,26,000/- per acre, but the document was wrongly registered for a lesser value and thus there is deficit stamp duty of Rs.99,306/- along with deficit registration fee of Rs.4,515/- which is due on the said document. The present Writ Petition was filed after more than three (3) years of passing of the order by the first respondent. It is further stated that in exercise of powers conferred under Section 47-A of the Act, the A.P. Revision of

Market Value Guidelines Rules were issued in G.O.Ms.NO.301, Revenue (Reg.I) Department dated 04.05.1998 and it came into force with effect from that date. Elaborate procedure is prescribed under Section 6 to prepare market value guidelines register. Thus, the fixation of market value is preceded by an elaborate procedure.

5. Learned counsel for the petitioner submits that except relying upon the market value guidelines register, the respondents have not relied on any documentary evidence to show that the market value of the property was Rs.7,26,000/- per acre. The inspection conducted by the second respondent shows that the land was being used as an agricultural land and the stamp duty cannot be levied on the basis of assumptions and presumptions. He further submitted that the basic value register has no evidentiary value and hence the orders passed by the respondents 1 and 2 are invalid. He relied on the decisions reported in Tungabhadra Holdings Private Limited v. District Registrar and Collector, Medak district and Gade Jogi Reddy v. Commissioner, Survey, Settlement and Land Records, Andhra Pradesh, Hyderabad, Learned Government Pleader could not cite any decision in support of the orders passed by the respondents 1 and 2.

6. In Tungabhadra Holdings Private Limiteds case (supra) the issue involved was with regard to appropriate value of the property which was involved in an auction conducted by or on behalf of the Central Government or the State Government or any authority or body incorporated by or under any law for the time being in force. In the instant case, the property involved was not purchased in any auction and hence the said decision has no application.

7. The other decision in Gade Jogi Reddys case (supra) deals with the application of principles of natural justice in relation to determination of market value under Section 41-A of the Act. In the light of the law laid down therein, the facts of the present case have to be seen.

8. Admittedly, the sale deed in respect of the land of an extent of Ac.1.42 cents of seri dry land situated in Survey No.538/1 of Lakshmipuram village, purchased by the petitioner was registered as document No.1153 of 1999 on 28.07.1999 by the third respondent. An annual inspection of the office of the third respondent was conducted during 1999-2000. The market value fixed for the land in the said survey number was Rs.7,26,000/- per acre, but the sale consideration shown under the said document was Rs.1,28,000/- on which a stamp duty of Rs.14,100/- was paid. The deficit stamp duty of Rs.99,306/- apart from deficit registration fee of Rs.4,515/- was determined. A spot inspection of the schedule property was conducted by the second respondent in the presence of the vendee and the VAO of Lakshmipuram village and other witnesses. The Revenue Inspector was also present. During the spot inspection, it was noticed that the land was situated on Western side of Ramanagaram Road and the 7th Block of Lakshmipuram major Grampanchayat is situated on the other side of the road. Though the land was being used as an agricultural field, it was vacant at the time

of the visit and there was no standing crop, but it has future potentiality of being converted into house plots in view of the land in 7th Block of Lakshmipuram Grampanchayat being contiguous to the property covered by the document. When an enquiry was conducted, two persons in the locality stated that the land would fetch approximately between Rs.80,000/- and Rs.1,00,000/- per acre if put to sale as per their local knowledge, but the same was not corroborated by any documentary evidence. The second respondent noted the above facts and opined that the action of the Sub-Registrar was not proper and the defence taken by the vendee that he has no means to pay deficit stamp duty was also held to be not proper. Accordingly, he provisionally came to the conclusion that the stamp duty payable on the document was Rs.1,03,821/- by his order dated 12.03.2001. When an appeal was preferred before the first respondent, he observed that the appellant did not produce any evidence in support of his contention that the higher rate of Rs.7,26,000/- per acre was fixed in 1993 revision basing on a freak transaction got registered in order to claim higher compensation in an acquisition case. He further observed that the value of the lands surrounding the village have house site potentiality and has more than the value of other agricultural lands in the vicinity. He dismissed the appeal accordingly. Pursuant to the same, a notice was issued to the petitioner on 01.05.2004 followed by the impugned memo dated 29.10.2005 asking him to submit his explanation within one week as to why a charge shall not be created on the property for the deficit stamp duty and registration fee totalling to Rs.1,03,821/-.

9. Section 41-A of the Act, which was inserted by A.P. Act 17 of 1986 with effect from 16.08.1986, enables the Collector to serve a notice on the person by whom the duty was payable requiring him to show cause why the proper duty or the amount required to make up the same should not be collected from him. Thereafter, the Collector or any officer specially authorized by him in this behalf shall, after considering the representation if any, made by the person determine by an order the amount of duty and the penalty due from such person. Sub-Section (3) deals with the provisions for appeal. In the instant case, a notice was issued by the second respondent and the petitioner was heard. The petitioner preferred an appeal and the same was rejected. The petitioner was present at the time of inspection by the second respondent. Now, the deficit stamp duty is sought to be collected on the basis of the basic value fixed in 1993 in respect of the land which was registered for a lesser value in 1999. There was a clear mistake on the part of the third respondent in registering the document in 1999 ignoring the value mentioned in the basic value register. That mistake could be rectified under Section 41-A of the Act and now it was sought to be rectified by the second respondent and the decision was confirmed by the first respondent after giving opportunity to the petitioner. Hence, it cannot be held that there was violation of principles of natural justice or the respondents 1 and 2 travelled beyond the jurisdiction conferred on them under Section 41-A of the Act. The Writ Petition itself was filed three years after determination of appeal by the first

respondent. The feeble contention advanced by the learned counsel for the petitioner stating that basic value register cannot be taken as the proper value for determination of the market value of a document is not applicable in the circumstances like this since such view was taken while considering the cases of enhancement of compensation under the provisions of Land Acquisition Act . In those cases, the Courts made the observations wherever there was scope for enhancement of compensation beyond the value fixed in the basic value register. In the instant case, the deficit stamp duty is sought to be collected based on the basic value register only, but not higher than that. There was difference of six years from the date of fixation of the market value in the basic value register to the date of registration of the document in respect of the land covered by the document viz., 1993 to 1999. In view of the above circumstances, this Court sees no ground to interfere with the orders passed by the respondents 1 and 2.

10. The Writ Petition is, accordingly, dismissed. There shall be no order as to costs.

11. As a sequel thereto, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed.