

PETITIONER:
STATE OF PUNJAB & ORS.

Vs.

RESPONDENT:
MOHABIR SINGH ETC. ETC.

DATE OF JUDGMENT 21/11/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1996 SCC (1) 609 JT 1995 (9) 301
1995 SCALE (7) 278

ACT:

HEADNOTE:

JUDGMENT:

WITH

C.A.NOS. 6213-17/90, 5425-28/90, 5622-25/90, 6218-22/90, 5615-16/90, 1510, 11509, 11582, 11494, 11501, 11502, 11503, 11504, 11505-07, 11495.500, 1151116/954@SLP(C) NOS. 14315, 13351/90, 10144/92, 20608/93, 1704/94, 4467/94, 3060, 5643, 19288-90/94, 12728-33 AND 12756-61 OF 1990

O R D E R

Leave granted in all the Special Leave Petitions.

The facts in C.A. Nos. 5337-41 of 1990 are sufficient for disposal of all these appeals.

The respondents had entered into an agreement of sale on March 4, 1989, to purchase from the vendors, Virender Singh and Rupinder Singh, a portion of house (Kothi No. 519) situated in Model Town, Jalandhar, of an extent of 20 marlas for a consideration valued at Rs.9,700/- per marla and they appear to have paid as earnest money of Rs.95,000/-. The sale deed was required to be executed and registered before November 30, 1989. Few days prior to the aforesaid date the instrument appears to have been valued at Rs.50,000/- and stamp duty was paid and presented for the same. The Sub-Registrar, Jalandhar, opined that prevailing market value was not less than Rs.15,000/- per marla and, on that basis, he required the vendee to revise the instrument and fix the consideration for the purpose of stamp duty and registration charges on the revised valuation. He formed his opinion on the basis of the instructions issued by the Government in Ex. PW. dated August 04, 1988. Feeling aggrieved, the respondents filed writ petition in the High Court. The Division Bench in C.W.P. No.7360/88 by order dated May 18, 1990 held that the guide lines cannot control the quasi judicial discretion given to the Registering Authority under Section 47A(1) of the Indian Stamp Act, 1982 which came into force with effect from August 04, 1982. Section 47A reads thus :

"47-A(1) : Instrument under valued how

to be dealt with - If the Registering Officer appointed under the Registration Act, 1908 (Central Act No.16 of 1908), while registering any instrument relating to the transfer of any property has reason to believe that the value of the property or consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, prefer the case to the Collector, for determination of the value of the property or the consideration, as the case may be, and the proper duty payable thereon.

(2) On receipt of reference under sub-section (1), the Collector shall, after giving the parties reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules under this Act, determine the value or consideration and the duty as aforesaid and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty.

(3) The Collector may suo motu, or on receipt of reference from the Inspector General of Registration or the Registrar of a district, appointed under the Registration Act, 1908 (Central Act No.16 of 1908) in whose jurisdiction the property or any portion thereof which is the subject matter of the instrument is situate, shall, within two years from the date of registration of any instrument, not already referred to him under sub-section (1) call for and examine the instrument for the purpose of satisfying himself as to the correctness of its value or consideration, as the case may be, and the duty payable thereon and if after such examination, he has to believe that the value of consideration and the duty as aforesaid in accordance with procedure provided for in sub-section (2) and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty.

(4) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may, within thirty days from the date of that order, prefer an appeal before the District Judge and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules made under this Act.

Explanation:- For the purpose of this section, value of any property shall be estimated to be the price which in the opinion of the Collector or the appellate authority, as the case may be, such property would have fetched, if sold in the open market on the date of execution of the instrument relating to

the transfer of such property."

The relevant portion of the guidelines are:-

"These floor process will act only as guidelines to the Sub-Registrars and the Sub-Registrar is free to invoke Section 47-A if he is quasi-judicially satisfied that the value of the property in a particular transaction is higher than the prescribed rate and has not been so rate etc. in that document. In other words, these process are only, the minimum prices prescribed."

Sub-section (1) of Section 47A empowers the Registering Officer, while Registering any instrument relating to the transfer of any property, if he has reasons to believe that the value of the property or consideration, as the case may be, has not been truly set forth in the instrument, after registering such instrument, to refer the same to the Collector for determination of the value of the property or the consideration, as the case may be, and the proper duty payable thereon. It would, therefore, be clear that the Registering Authority has to satisfy himself that value of the property or the consideration for it has not been truly set forth in the instrument. He may make a reference to the Collector in accordance with the provisions of sub-section (2) of Section 47A. Before making reference, he is required to register the document and he is not empowered to withhold the registration. Such a registration, of course, will be subject to the determination of the true market value prevailing in the locality though the value mentioned in the instrument for such registration under sub-section (1) of Section 47A was not conclusive.

The guidelines provided by the State would only serve as prima facie material available before the Registering Authority to alert him regarding the value. It is common knowledge that the value of the property varies from place to place or even from locality to locality in the same place. No absolute higher or minimum value can be pre-determined. It would depend on prevailing prices in the locality in which the land covered by the instrument is situated. It will be only on objective satisfaction that the Authority has to reach a reasonable belief that the instrument relating to the transfer of property has not been truly set forth or valued or consideration mentioned when it is presented for registration. The ultimate decision would be with the Collector subject to the decision on an appeal before the District Court as provided under sub-section (4) of Section 47A.

It would thus be seen that the aforesaid guidelines would inhibit the Registering Authority to exercise his quasi-judicial satisfaction of the true value of the property or consideration reflected in the instrument presented before him for registration. The statutory language clearly indicates that as and when such an instrument is presented for registration, the sub-Registrar is required to satisfy himself, before registering the document, whether true price is reflected in the instrument as it prevails in the locality. If he is so satisfied, he registers the document. If he is not satisfied that the market value or the consideration has been truly set forth in the instrument, subject to his making reference under Sub-section (1) of Section 47A, he registers the document. Thereafter, he should make a reference to the Collector for action under sub-section (2) and (3) of Section 47A.

Accordingly, we hold that the offending instructions are not consistent with sub-section (1) of Section 47A. It would, therefore, be open to the State Government to revise its guidelines and issue proper directions consistent with law.

The appeals are accordingly disposed of. No costs.

JUDIS