indiramma Vs. State of Karnataka and Others

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Court : Karnataka

Decided On : Mar-27-2000

Reported in : AIR2000Kant355; 2001(2)KarLJ483

Judge : V. Gopala Gowda, J.

Acts : Karnataka Stamp Act, 1957 - Sections 45-A and 68; Karnataka Stamp (Prevention of Under valuation of Instruments) Rules, 1977 - Rule 5; Karnataka Stamp Act, 1998 - Sections 9

Appeal No. : Writ Petition No. 40043 of 1995

Appellant : indiramma

Respondent : State of Karnataka and Others

Advocate for Def. : Sri A. Padmanabhan, High Court Government Pleader

Advocate for Pet/Ap. : Sri T.N. Vishwanath, Adv.

Judgement :
ORDER

1. The petitioner entered into agreement for purchasing a site measuring 60 x 45 feet, bearing No. 32 in Sy. No. 3 of Garahalli, Bangalore North Taluk from the 5th respondent for a sum of Rs. 15,000/- on 24-8-1978. Since the 5th respondent failed to execute the sale deed, the petitioner filed suit in O.S. No. 1553 of 1982.

After contest, the suit was decreed on 24-8-1984. R.F.A. No. 17 of 1986 filed against the said judgment was dismissed on 23-3-1993. Thereafter, in Execution No. 406 of 1985 the petitioner got the sale deed executed through the Court. Thereafter, the 3rd respondent has passed a provisional order fixing the value of the site at Rs. 5,40,000/- and directing the petitioner to pay deficit stamp duty of Rs. 10,500/-. The appeal preferred against the same was rejected. This writ petition is filed praying to quash those orders on the ground that the provisional order was not served on the petitioner and no notice was served before passing the provisional order.

2. I have perused the impugned orders. The provisional order at Annexure-F and the final order at Annexure-G are passed taking into consideration the relevant aspects and assigning valid and cogent reasons. The same do not call for interference. The contentions of Mr. Viswanath, learned Counsel for the petitioner that the Appellate Authority has not considered the appeal taking into consideration Rule 5 of the Karnataka Prevention of Under valuation of Instruments Rules; that it is not a speaking order and hence the same is liable to be quashed, cannot be accepted for the simple reason that both the authorities have taken into consideration the location of the property, the facilities and infrastructure available in the vicinity and other relevant aspects. After passing the provisional order, opportunity was given to the petitioner to file her objections. However, the petitioner did not avail the said opportunity. Hence, final order at Annexure-G came to be passed confirming the provisional order. The petitioner cannot have any grievance against such orders.

3. Even otherwise also, the order passed by the 3rd respondent is a valid order. As along as the order passed by the original authority stands to the test of legality and validity, the orders of either the appellate or revisional authority will not attract interference.

4. In view of the amendment to Section 9 of the Karnataka Stamp Act by Act No. 5 of 1998, with effect from 1-4-1998, the State Government has got power to issue notification for reducing the stamp duty payable to 50% on the deed. The respondents shall extend the benefit of that notification to the petitioner. If any

amount is payable by the petitioner after providing such a benefit, the petitioner shall pay the amount within four weeks.

5. Subject to the above observation, this writ petition stands disposed of.