

Jeetmal and ors. Vs. State of Rajasthan

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Court : Rajasthan

Decided On : May-10-1977

Reported in : 1977WLN(UC)223

Judge : S.N. Modi, J.

Appeal No. : S.B. Civil Revision Nos. 16 and 337 of 1976

Appellant : Jeetmal and ors.

Respondent : State of Rajasthan

Disposition : Application allowed

Judgement :

S.N. Modi, J.

1. The petitioners effected partition of the immovable properties of their family by a partition deed executed by them on September 29, 1971 on non-judicial stamps worth Rs. 3054/- and valued the properties at Rs. 82,000/-. One of the petitioners namely jeetmal presented the suit deed for registration before the Registering Authority on 9.11.1971 between 8 a.m. and 8 30 a.m. The petitioners admitted execution of the said partition deed before the Registering authority who registered the same in accordance with law on the same day. On the same day i.e. 9.11.1971 a complaint was lodged in the office of the Registering Authority to the

effect that the valuation given in the partition deed in respect of certain properties was grossly inadequate. But it is not clear from the record whether this complaint was placed before the Registering Authority at the time the registering authority registered the instrument. The partition deed was copied out in Book No. 1 volume 119 at pages 333 to 342 at serial No. 1522 on 17.11.71. On 8.12.71 the registering authority sent the original partition deed to the Collector, Bhilwara for taking proceedings under Section 47A of the Rajasthan Stamp Law. Adaptation Act, 1952. The registering authority in his report to the Collector stated that the valuation of various properties referred to in the deed was not correctly mentioned and there was clear violation of the provisions of Section 27 of the Indian Stamp Act. He further mentioned that according to his estimate the valuation of the properties was 2, 37,000/- and therefore the partition deed required non-judicial stamps to the tune of Rs. 13794/-. There was thus according to him deficiency of stamp duty to the tune of Rs. 10740/-. The Additional Collector on receipt of the report dated 8.12.71 issued notices to the petitioners under Section 47A and after hearing the parties passed an order to assess valuation of the properties under Section 47A. It was argued before the learned Additional Collector that the registering authority had no jurisdiction to refer the matter to the Collector under Section 47 A but this objection was overruled by the learned Additional Collector. Dissatisfied with the said order the petitioners preferred an appeal before the District Judge, Bhilwara who held that the matter clearly fell within the purview of Section 47 A and therefore, the order passed by the Additional Collector was fully justified. He accordingly dismissed the appeal. The petitioners have now preferred a revision application against the order of the District Judge, Bhilwara and have also filed writ petition challenging the correctness of the order passed by the Additional Collector. As both these matters arise out of the same subject matter they are being disposed of together.

2. I have heard Mr. Mehta the learned advocate on behalf of the petitioners and Mr. Bhandari the learned Dy. Government Advocate on behalf of the State. The sole question which arises for consideration in these two matters is whether the registering authority had jurisdiction to proceed under Section 47A of the Rajasthan Stamp Law Adaptation Act. The relevant portion of Section 47A runs as under:

47 A Instruments undervalued, how to be valued (1) wherein the case of any instrument relating to any immoveable property chargeable with an ad valorem duty on the value of the property or the consideration as set forth in the instrument the registering officer, has while registering the instrument reasons to believe that the value of the property or the consideration as the case may be has not been truly set forth in the instrument, he may after registering such instrument, send it in original to the Collector to determine the value of consideration & to assess and charge the duty in Conformity with such determination.

3. Sub-Section (1) of Section 47A authorises the registering authority to send the original instrument to the Collector, for reassessment of the valuation of the property only in case when the registering authority while registering the instrument has reason to believe that the value of the property or the consideration as the case may be as not truly set forth in the instrument. The important words in this Sub-Section registering Officer has while registering the instrument reasons to believe that the value of the property or the consideration as the case may be has not been truly set forth in the instrument. The question arises whether in the present case there is anything to show that the registering authority at the time of registering the instrument had reasons to believe that the value of the property has not been truly set forth in the instrument. I have carefully gone through the report of the registering authority dated 8-12-71 and I find that there is no indication to the effect that at the time when he was registering the instrument he entertained any doubt as to the valuation set forth in the instrument. There is also no indication in the report dated 8-12-71 that he had any reasons to believe at the time of registering the instrument that the valuation put forth by the petitioners in the instrument was grossly inadequate or true. It is correct that a complaint was lodged in the office of the registering authority on 9-11-71 complaining that the valuation put forth in the instrument was grossly inadequate but there is nothing to suggest that this complaint was placed before the registering authority on 9-11-71 when the instrument was being registered by him. In absence of any indication that the registering Officer had while registering the instrument reasons to believe that the value of the property set forth in the instrument was inadequate, the provisions of Section 47A can not be attracted.

4. The learned Dy. Government Advocate has argued that even if the registering authority had no doubt as to inadequacy of the valuation mentioned in the instrument on 9-11-71, he must have entertained such a doubt on or before 17-11-71 when the copy of the instrument was copied out in the registers of the registering authority. I find no substance in the above contention. There is absolutely nothing to show on the record that the registering authority had entertained any doubt as to inadequacy of valuation even on or before 17-11-71.

5. For the foregoing reasons I accept the revision application as well as the writ petition and quash the proceedings initiated by the Additional Collector Under Section 47A of the Act. It will however, be open to the State or to any other competent authority to initiate other proceedings against the petitioners in accordance with law.