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SooperKanoon Citation : sooperkanoon.com/772076

Court : Rajasthan

Decided On : Jan-10-2007

Reported in : 2007(1)WLN39

Judge : Mohammad Rafiq, J.

Appeal No. : S.B. Civil Writ Petition No. 1990/2000

Appellant : State of Rajasthan

Respondent : Techno Hind Marble and Granite Pvt. Ltd. and anr.

Advocate for Def. : Shri. D.K. Vaya

Judgement :

Mohammad Rafiq, J.

1. Heard learned Counsel for the parties.

2. The petitioner State of Rajasthan has come up in writ petition against the order dt. 30.03.1993 passed by Board of Revenue for Rajasthan, Ajmer whereby the writ petition filed by the respondent No. 1 under Section 56 of the Indian Stamp Act was allowed. The respondent No. 2 had challenged the order dt. 10.07.1990 passed by Additional Collector (Stamps), Jaipur whereby the said Additional Collector upheld the objection of Sub-Registrar when he impounded the lease deed executed by Rajasthan State Industrial Development and Corporation

('RIICO' for short) presented before him for registration on 13.03.1990 and referred the matter to Additional Collector (Stamps). The Additional Collector in exercise of his powers under Section 47-A of the Act directed for inclusion of the amount of the development charges released by RIICO from the previous owner as part of the sale price and on that basis assessed the value of the conveyanced deed and required the respondent No. 1 to pay enhanced stamp duty.

3. Learned Deputy Government Advocate Mr. B.S. Chhaba in assailing the judgment of the Board of Revenue has argued that the Board failed to consider that stamp duty is payable on the basis of actual valuation of the lease as well as the building existing thereupon and cost of both has to form the basis for assessment of its value. While referring to the definition of 'immovable property' as given in Section 2(6) of the Indian Registration Act he argued that according to such definition, the land, includes land, building, hereditary allowances etc. and definition of word 'conveyance' as given in Section 2(10) of the Indian Stamps Act also include conveyance of sale and every instrument by which property whether movable or immovable, which is transferred. But according to him, the Board of Revenue has taken a very narrow interpretation of all these provisions and has illegally excluded the element of development charges just because they were realized from the previous leasee. He submits that such element nonetheless enhanced value of the property.

4. On the other hand, Shri D.K. Vaya learned Counsel for respondent No. 2, argued that the judgment passed by the Board of Revenue is perfectly legal and does not suffer from any error. Neither the Sub-Registrar nor Additional Registrar (Stamps) has any jurisdiction to frustrate any conveyance and the policy of the State Government. The RIICO gives loan to sick industries. Lease deed executed by RIICO in favour of the answering No. 1 was for use of the property on lease hold basis and had nothing to do with any construction over the land. He submitted that the lease deed presented for registration on 13.03.1990 but the amendment regarding development charges which empowers Sub-Registrar including surcharge for the purpose of valuation of the property subject matter of conveyance was subsequently included in Clause-B of Article 35 of Second Schedule appended to the Rajasthan Stamp Law (Adoption) Act, 1952 and,

therefore, development charges could not have been included as one of the ingredients for assessing value of the property in question given on lease hold basis. He while referring the statement of reasons and objects of the Rajasthan Settlement Law (Adoption and Amendment) Act, 1992 submitted that the object of the said amendment clearly reveals that development charges were for the first time sought to be added to the amount of consideration on which stamp duty is payable by the aforesaid amending Act.

5. I have given my thoughtful consideration to the arguments advanced by the learned Counsel for the parties and analyse the documents available on record including judgment passed by the learned Board of Revenue. Learned Board of Revenue on consideration of the amended provisions referred to above has categorically noted that such amendment was intended to be only prospective in nature and the Sub-Registrar could not have given retrospective effect to this amendment. In the circumstances, the development charges could not have been included in the amount for consideration when the lease deed was presented for registration on 13.03.1990 because the amendment into provision itself came into effect on 14.03.1992. I do not find any error in the order passed by the learned Board of Revenue so as to warrant interference by this Court in its writ jurisdiction under ArticleS 226 and 227 of the Constitution of India.

6. The writ petition being devoid of merit, is dismissed with no order as to costs.