

NO.107

COURT.6

SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3671-3684 OF 2003

STATE OF RAJASTHAN & ORS.

Appellant (s)

VERSUS

SATYAM PROPERTIES

Respondent(s)

Date: 29/07/2010

These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE T.S. THAKUR

For Appellant(s)

Dr. Manish Singhvi, AAG
Mr. Devanshu Kumar Devesh, Adv. for
Mr. Milind Kumar, Adv.

For Respondent(s)

None appeared.

UPON hearing counsel the Court made the following
O R D E R

The Appeals are disposed of. No costs.

(Rajesh Dham)
Court Master

(Indu Satija)
Court Master

(signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

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O R D E R

Heard the learned counsel for the appellants.

Although the respondent has been duly served, none
red therefor.

The short question in this case is whether Rule 59(B)
the Rajasthan Stamp Rules, 1955 (for short 'the Rules')
ultra vires Section 47A of the Rajasthan Stamp Act, 1899
r short 'the Act').

The High Court has held Rule 59(B) of the Rules to be
ultra vires and hence, this Appeal.

Rule 59(B) of the Rules reads as under :-

"59(B) Procedure for assessment of the market
value of the property by the Registering
Officer- (1) In the case of an instrument
relating to immovable property, the market
value of land shall be assessed by the
Registering Officer on the basis of the rates
recommended by the District Level Committee
constituted under Rule 2(j) from time to time
ordered the rates approved by the Inspector
General of Stamps from time to time, whichever
is higher and market value of the constituted
portion shall be assessed on the basis of the
rates determined by the State Government from
time to time.

(2) If the rates of land recommended by the
District Level Committee are not revised within
one years from the date of such recommendation
ordered if the market value of the land in any
area as extra ordinarily increased or
decreased, the State Government may suo-motu or
on a reference made by the Inspector General of
Stamps re-determine by order the rates of the
land in such areas on the basis of the
recommendation made by a committee consisting
of SSF (Revenue) as chairman and Inspector
General of Stamps, D.S.F. (Tax), Collector of
concerned District and a Public Representative
of that District nominated by the Government as
member. The rates so determined shall be the
market value of that area and be the basis of
assessment of the market value of the land with
effect from the date specified in such order
and be valid till the District Level Committee
revises the rates do determined."

Section 47A of the Act is as under :-

"47A. Instruments under valued, how to be values

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(1) Notwithstanding anything contained in the Registration Act, 1908 (Central Act XVI of 1908) and the Rules made thereunder as in force in Rajasthan where, in the case of any instrument relating to an immovable property chargeable with an ad valorem duty on the market value of the property as set forth in the instrument, the registering officer has, while registering the instrument, reasons to believe that the market value of the property has not been truly set forth in the instrument, he may (either before or after registering) send it in original to the Collector for determination of the market value and to assess and charge the duty in conformity with such determination together with a penalty not exceeding 10 times of the deficient stamp duty chargeable and surcharge, if any, payable on such instrument.

(2) On receipt of the instrument under subsection (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in the prescribed manner determine the market value and duty including the penalty and surcharge, if any, payable thereon and if the amount of duty including penalty and surcharge, if any, already paid, the deficient amount shall be payable by the person liable to pay the duty including penalty and surcharge, if any."

It is a well settled principle of interpretation that the Court should try to uphold the validity of a provision unless it is clearly ultra vires. In our opinion, we can re-concile Rule 59(B) of the Rules with Section 47A of the Act by adopting the principle of harmonious construction.

Section 47A of the Act is a provision in the statute, whereas Rule 59(B) of the Rules is only a piece of delegated legislation. In our opinion, we can harmonise the two provisions quoted herein above by holding that the assessment determined under the Rules by the District Level Committee (which is commonly known as 'circle rate') shall not prevent the Registering Officer from making a reference under Section 47A of the Act to the Collector in case the Registering Officer, prime facie, is of the opinion

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market value of the property is far above the circle
so determined by the District Level Committee.
In our opinion, this is the only harmonious
instruction possible because obviously Rules cannot render
mandatory the provisions of the Act. Hence, it is not
mandatory for the Registering Officer to necessarily accept
in every case the recommendations of the District Level
Committee. In an appropriate case and in certain situation,
the Registering Officer can disagree with the assessment
determined by the District Level Committee and refer the
matter to the Collector under Section 47A of the Act.

Hence, we set aside the judgment of the High Court.
The Appeals are disposed of accordingly. No costs.

.....J.
(MARKANDEY KATJU)

.....J.
(T.S. THAKUR)

NEW DELHI
JULY 29, 2010.

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