

RAJASTHAN TAX BOARD, AJMER

Case No.591/ 2011/JAI PUR

State of Rajasthan

Through Sub Registrar-IV, Jaipur

Vs

Sh. Sameer Khandelwal s/o Shri Mahesh Kumar Dangayach,
r/o. plot No. 208, Everest Vihar, Ajmer Road,
Jaipur & others.

SB

Shri Rakesh Srivastava, Chairman

JUDGMENT

Dated: 23 /03/2015

The revision petition has been filed by the State under section 65 of Rajasthan Stamps Act, 1998 against the order dated 29.4.2010 passed by learned Additional Collector (Stamps), Jaipur in case No. 288/10 under section 37 of Rajasthan Stamps Act, 1998.

D.G.A. Shri Anil Pokharna was present. Shri Kanwar Danish, advocate is present on behalf of non applicant. They were heard and concerned documents were perused.

D.G.A. Shri Pokharna submits that an agreement was executed by the Respondent No.2 in favour of Respondent No. 1 in regard to plot situated at Jai Mata, Vaishnav Nagar, Jaipur. The vendee submitted an application along with the said agreement in the office of Collector, Stamps, Jaipur for proper stamp duty on the said agreement on 29.04.2010. Therefore, case under section 37 of Rajasthan Stamps Act was registered. Shri Pokharna states that the learned Additional Collector (Stamps), Jaipur decided this reference

vide order dated 29.04.2010 and decided the matter that stamp duty as applicable on the date of execution of the agreement is payable and accordingly decided the reference. Shri Pokharna has assailed the order of learned Additional Collector (Stamps) on the following grounds:-

(1) That the impugned order dated 29.04.10 is contrary to law, facts and material available on record. He submits that learned Collector proceeded on the assumption that stamp duty is payable as applicable on the date of execution of the document. He states that learned Collector failed to appreciate the provisions of section 35, 36 and 45 of Rajasthan Stamps Act according to which stamp duty is payable as applicable on the date of presentation of the document if the document is presented after expiry of one month from the date of its execution. He further states that the Supreme Court has held this view as reported in 2008 RRT Volume-I Page 551. Therefore the order of Collector, (Stamps) dated 29.04.10 is erroneous.

(2) He further states that Collector (Stamps) has registered the case under Section 55 of the Stamps Act which is not correct since the case should have been registered under Section 35. He, therefore, submit that the impugned order dated 29.04.10 of learned Collector (Stamps) be set aside and the matter be remanded to him for proper adjudication of stamp duty as per law.

Advocate for Respondent submits that the order of Collector (Stamps) is correct and in keeping with Circular dated 17.10.14 of I.G. (Registration and Stamps) and,



therefore, the revision application filed by petitioner state be set aside.

On perusal of the impugned order, it appears that learned Collector (Stamps) has registered the case under section 55. A perusal of section 55 reveals the heading “procedure in case of non registration of documents required to be registered with the purpose of avoiding stamp duty.” In the present case, the non applicant had themselves submitted an application to Collector (Stamps) for adjudication of stamp duty. Accordingly section 55 is not attracted in this case. Learned Collector should have registered the case under section 35 and proceeded this with his enquiry.

Further perusal of the documents reveals that the document was executed on 14.05.2004 and was presented for registration on 29.04.2010. Since there is a gap of more than six years in the two dates, therefore, following the Supreme Court judgement mention above, the rate as applicable on the date of presentation shall be considered for registering the document and not the rate as applicable on the date of execution. The Circular dated 17.10.14 of I.G. (Registration and Stamps), in the light of Supreme Court judgement, will not apply in this case.

Accordingly it is ordered that the case be remanded to Collector (Stamps), Jaipur for proper adjudication of the stamp duty in accordance with law. The revision application of the State is accordingly accepted and the impugned order dated 29.04.10 of Collector (Stamps), Jaipur be set aside.

Pronounced.


(Rakesh Srivastava)
Chairman