

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION NO.46703 OF 2022

Between:

1. Shaik Jani Pasha S/o Shaik Hussain, Aged about 55 years,
Occ:Business, R/o.H.No.6-2, Janpahad Road, Damaracherla
Village and Mandal, Nalgonda District.

...Petitioner(s)

AND

1. The State of Telangana,
Represented by its Principal Secretary,
Revenue (Stamps and Registration) Department, Secretariat
Buildings, Hyderabad
And 2 Others

...Respondents

JUDGMENT PRONOUNCED ON: 13.02.2023

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

MUMMINENI SUDHEER KUMAR, J

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

+WRIT PETITION NO.46703 OF 2022

%Dated 13.02.2023

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...Respondents

! Counsel for Petitioner(s): Mr. Hari Kishan Kudikala,

^ Counsel for Respondents:

1. GP for Stamps and Registration for respondent Nos.1 and 2.

< GIST :

> HEAD NOTE :

? Cases referred:

1. 2004 (6) ALT 23 (D.B.)
2. 2004 (6) ALT 427 (S.B)

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR**WRIT PETITION No.46703 OF 2022****ORDER:**

This Writ Petition is filed assailing the notice issued by respondent No.2 requiring the petitioner to pay their Stamp duty chargeable in respect of the Agreements of Sale, dated 24.04.2011 in notice No.Imp/2406/2022, dated 01.11.2022, wherein the petitioner was required to pay Stamp duty under Article 6B of Schedule 1(A) of the Indian Stamp Act, 1899, as illegal and arbitrary.

2. It is the case of the petitioner that the said Agreements of Sale with possession, dated 24.04.2011, forwarded to respondent No.2 for the purpose of impounding by collecting deficit Stamp duty in respect of the open lands admeasuring various extents and respondent No.2, having considered the said documents, issued the impugned notice requiring the petitioner to pay deficit Stamp duty under Article 6(B) of Schedule 1(A) of the Indian Stamp Act, 1899.

3. According to the learned counsel for the petitioner, the agreements of sale in question are covering only open lands and as such the petitioner is liable to pay Stamp duty only under Article 6(A) of Schedule 1(A) of the Indian Stamp Act, 1899, but

not under Article 6(B) of Schedule 1(A) of the Indian Stamp Act, 1899, as demanded by respondent No.2.

4. This matter was adjourned from time to time to enable the learned Assistant Government Pleader for Stamps and Registration to get instructions and today learned Assistant Government Pleader for Stamps and Registration placed before this Court the written instructions, which are in tune with the contents of the demand made in the impugned notices.

5. Learned counsel for the petitioner brought to the notice of this Court that this Court, on an earlier occasion, considered the similar aspect in respect of the property, which is open land and this Court held that in respect of open lands, it is only under Article 6(A) of Schedule 1(A) of the Indian Stamp Act, 1899, applies but not Article 6(B) of Schedule 1(A) of the Indian Stamp Act, 1899.

6. In the case of **Saranam Peda Appaiah v. S.Narasimha Reddy**¹, a division Bench of this Court has considered the similar issue and held as under:-

“Article 6(B) is very clear in its expression that in case of any transactions relating to construction of a house etc. as mentioned in descriptive column of the instrument, the stamp duty required is Rs. 5/- for every hundred or part thereof, of the market value or the estimated cost of proposed construction or development of such property as the case may be. Therefore, the question that calls for consideration is whether the said Article covers the

¹ 2004 (6) ALT 23 (D.B.)

agricultural land also. It is a cardinal principle of the interpretation that the provision interpreted with reference to the words contained in the provisions and by interpretative process, it is neither to be expanded nor constricted. When the Legislature has specifically referred to the document relating to construction of house, apartment, flat, portion of multi-storied building etc and the stamp duty is payable on the market value or the estimated cost of the said property, it has to be confined only to houses, multi unit houses or apartment etc. Even the valuation was sought to be arrived at on the basis of the rates prescribed by the Public Works Department authorities. Further it is noticed that the transactions left over by Article 6(B) are covered by Article 6(C). Therefore, it cannot also be said that there was vacuum in the Article. In the instant case, the agreement is after 1-4-1995, but it relates to the agricultural land. Taking the clue from the last expression in the document namely "sale of any other immovable property" it was contended that it would embrace in its fold other immovable property including the agricultural property and therefore, the stamp duty has to be paid on that basis. But, that contention cannot be accepted, inasmuch as the expression the sale of any other immovable property has to be interpreted keeping in view the principles of *ejusdem generis* namely where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or classes as specifically mentioned. Otherwise, the other provisions become otiose."

7. Further, in the case of **Pechitti Ramakrishna v. Nekkanti Venkata Manohara Rao and others²**, a learned Single Judge of this Court has considered the application under Article 6(B) of Schedule 1(A) of the Indian Stamp Act, 1899, but not under Article 6(A) of Schedule 1(A) of the Indian Stamp Act, 1899, which it reads as under:-

"A careful reading of Article 6(B) of Schedule 1-A of the Act goes to show that it is applicable if the agreement relates to construction of a house or building including a multi-unit house or building or unit of apartment/flat/portion of a multi-storied building or for development/sale of any other immovable property. A further reading of the stamp duty payable specified in column No. 2 also makes it clear that this provision was

² 2004 (6) ALT 427 (S.B)

introduced in relation to the construction agreements or agreements of the like nature. No doubt, emphasis was laid on the language "sale of any other immovable property". These words "sale of any other immovable property" in Article 6(B) of Schedule 1-A of the Act may have to be read along with the rest of the provision and also with column No. 2. As far as any other case specified in Article 6(C) of Schedule 1-A of the Act is concerned, it should be construed to be a case not falling under either A or B of Schedule 1-A of the Act. It is needless to say that Article 6(A) of Schedule 1-A of the Act is a general provision. It is no doubt true that in the present case, the sale consideration recited in the agreement of sale is Rs. 42,500/- and it is in relation to the sale of a vacant site. On a careful reading of the language employed in Article 6(A, B & C) of Schedule 1-A of the Act and also the stamp duty payable specified in column No. 2 and taking into consideration the object of introducing B by A.P. Act 21 of 1995, I am of the considered opinion that Article 6(B) of Schedule 1-A of the Act would be applicable only in such specified cases and the same cannot override the general provision of Article 6(A) of Schedule 1-A of the Act and agreement in question would definitely fall under the general provision of Article 6(A)(iii) of Schedule 1-A of the Act and hence, the stamp duty already paid is sufficient. It is also clarified that in the light of the nature of the document Article 6(B) of Schedule 1-A of the Act is not applicable to the present case. Hence, the impugned order holding that the stamp duty and penalty relating to the document in question is liable to be paid under Article 6(B) of Schedule 1-A of the Act cannot be sustained."

8. In the light of the above settled legal position and taking into consideration the fact that there is no dispute that the subject matter of the Agreements of sale in question is only open lands and no constructions are existing thereon, it is only Article 6(A) of Schedule 1(A) of the Indian Stamp Act, 1899, applies but not Article 6(B) of Schedule 1(A) of the Indian Stamp Act, 1899, as claimed by respondent No.2, the impugned notices are set aside.

9. Accordingly the Writ Petition is allowed and respondent No.2 is directed to impound the subject documents by applying

Article 6(A) of Schedule 1(A) of the Indian Stamp Act, 1899, instead of Article 6(B) of Schedule 1(A) of the Indian Stamp Act, 1899, and complete the process of impounding, as expeditiously as possible, at any rate, within a period of four (04) weeks from the date of receipt of a copy of this order.

As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand closed. There shall be no order as to costs.

MUMMINENI SUDHEER KUMAR, J

Date: 13.02.2023

Note:-Issue C.C.in four days.

(B/o)
NDS

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION No.46703 OF 2022

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