

ITEM NO. 105

COURT NO. 7

SECTION XV

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 4575 OF 1997@@
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State of Rajasthan and Ors. ... Appellant (s)

Vs.

M/s. Bajaj Hindustan Ltd. and Ors. ... Respondent (s)

(With appln. for early hearing and ex-parte stay and
office report)

Date: 28-11-2000 This/These matter(s) was/were called
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

For appellant (s) Mr. GL Sanghi, Sr.Adv.
Mr. CS Bhardwaj, Adv.
Mr. Sushil Kr. Jain, Adv.

For respondent (s) Mr. Bhaskar Gupta, Sr.Adv.
Mr. Dipak Kr. Roy, Adv.
Mr. AT Patra, Adv.
Mr. Sanjeev Sen, Adv.
for M/s. OP Khaitan & Co.

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

The appeal is disposed of.

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(Alka Dudeja)
Court Master

(S. Krishnan)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

State of Rajasthan and others .. Appellants

-versus-

M/s. Bajaj Hindustan Ltd. and ors. .. Respondents

O R D E R

The State of Rajasthan executed a lease of land measuring 400 acres in favour of M/s. Bajaj Hindustan Limited for the purpose of setting up a cement factory. The said lease was for a period of 99 years. M/s. Bajaj Hindustan Ltd. set up cement factory on the leased land. In 1993 M/s. Bajaj Hindustan Limited transferred the said factory along with building, plant and machinery comprised on the leased land in favour of M/s. J.K.Udaipur Udyog Limited hereinafter referred to as J.K. Udyog. M/s. J.K. Udyog on 15.9.93 filed an application under Section 31 of the Stamp Act before the Collector (Stamps), Udaipur along with the documents for adjudication of stamp duty. The Collector after making the spot inspection of the properties sent a notice dated 18.9.93 to M/s. J.K. Udyog to submit information for determination of the market value of the properties which were transferred under various deeds. M/s. J.K. Udyog, instead of complying with the said notice, presented documents for registration at the office of the Sub-Registrar, Mavli on 1.12.93, which are as follows:

1. Indenture of conveyance dated 1.12.1993 in respect of building on lease-hold land measuring 400 acres in Tehsil Mavli.

2. Indenture of conveyance dated 1.12.1993 in respect of 14 bighas and 11 biswas of land and building therein Tehsil Mavli.

3. Endorsement by the Collector, Udaipur dated 1.12.93 on certified copy of lease-deed for 400 acres of land in Tehsil Mavli sent by the Collector Udaipur for registration.

On receipt of the said documents, the Sub-Registrar, Mavli sent a letter to the Inspector General, Registration and Stamps, Rajasthan seeking his guidance in determining the market value of the properties as the Sub-Registrar found that it required technical expertise to assess the value of the property. Subsequently, the Sub-Registrar issued notice on 21.12.93 requiring the parties to furnish certain information as to whether there was any agreement of sale executed between the parties and also asked for the balance-sheet of M/s. Bajaj Hindustan Limited. Subsequently, the registering authority as well as the Additional Inspector General, Registration of Stamps, issued number of notices seeking information from M/s. J.K. Udyog and according to the appellants the information asked for was not submitted and, therefore, the documents that were presented by the respondent were not registered. The respondents filed a petition under Article 226 of the Constitution of India for a direction to the appellants herein to register two conveyance and one endorsement for transfer of Government leased land on 1.12.93. There was also a prayer to restrain the respondents from taking into consideration or including the value of property including the plant and machinery other than what are mentioned in the deeds. During pendency of the writ petition several interlocutory orders were passed by the High Court and some such orders were challenged in this Court but the said orders are not relevant for purposes of this case.

However, it is relevant to mention that under the orders of the High Court certain documents were registered, subject to the decision of the High Court in the writ petition. Subsequently, the writ petition came up for final hearing. The High Court remanded the matter to the registering authority for making the correct valuation of the property sought to be registered in the light of observations made in the judgment. However, while doing so, the High Court touched the matter on merits also. It is in this way the State of Rajasthan is aggrieved.

We have heard the matter at length and we are of the view that the High Court ought not to have entertained the petition under Article 226 of the Constitution when the complete machinery for adjudication of dispute regarding determination of valuation of the property is provided for in the Indian Stamp Act, as amended by the State of Rajasthan. Section 3 of the Act provides instruments chargeable with duty. Section 27 provides that the facts affecting duty to be set forth in instruments sought to be registered. Section 47A of the Act provides for instruments under valued and how to be valued. It further provides that when the registering authority has reason to believe that market value of the property has not been truly set forth in the instrument, he may refer the matter to the Collector for determination of the market value. An aggrieved party is free to challenge the order of the Collector by revision before the Board of Revenue and further reference to the High Court is also provided. Thus, we find there is a complete code for adjudication of dispute regarding the duty payable by the respondents and under such circumstances the writ petition ought not to have been entertained and decided on merits.

Learned counsel for the parties are agreed that the matter may be sent back to the Collector (Stamps) where they will have an opportunity to raise all the questions which are available to them under law. We, accordingly, set aside the judgment under appeal and send the matter back to the Collector (Stamps) under Section 47A of the Act where it will be open to the parties to raise objections regarding the valuation of the properties which may be available to them under law. The Collector (Stamps) shall, while deciding the matter, not be influenced by any observation made by the High Court in the impugned judgment. So far as the documents which have already been registered, they will remain intact and in case it is found that the respondents under law are required to pay additional stamp duty on those documents, the same would be recovered from the respondents. Since the matter is pretty old the Collector is directed to decide the matter, if possible, within six months.

With these directions, the appeal stands disposed of.

& & & & & & & & J.
(V.N.Khare)

& & & & & & & J.
(K.G.Balakrishnan)

New Delhi;
November 28, 2000