

ITEM NO.8

COURT NO.8

SECTION XIV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

I.A. Nos. 7-8/2016 in  
Petition(s) for Special Leave to Appeal (C) Nos. 27754-27755/2012

(Arising out of impugned final judgment and order dated 19/03/2012  
in WP No. 7028/2011 and in WP No. 8424/2011 passed by the High  
Court of Delhi at New Delhi)

PRINCIPAL SECRETARY, INDUSTRIES DEPARTMENT,  
GOVERNMENT OF UTTAR PRADESH & ANR.

Petitioner(s)

VERSUS

M/S SUPERIOR INDUSTRIES LTD. & ORS.

Respondent(s)

(For directions and office report)

Date : 03/03/2017

These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s)

Mr. Ranjit Rao, Adv.  
Mr. Gaurav Srivastava, Adv.  
Mr. Anuvrat Sharma, Adv.  
Ms. Alka Sinha, Adv.

For Respondent(s)

Mr. Anil Airi, Sr. Adv.  
Mr. Ravi K. Chandna, Adv.  
Mr. Devendra Singh, Adv.  
  
Mr. Amarjit Singh Bedi, Adv.  
Mr. Srisatya Mohanty, Adv.  
  
Mr. Binay Kumar Das, Adv.  
  
Mr. Rajeev Sharma, Adv.

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

The applicant-respondent No. 1 herein (Superior

Industries Ltd.) is the auction purchaser of the property viz., Potable Alcohol Unit (PAU), who purchased the said property in open auction which was held under the aegis of Board for Industrial and Financial Reconstruction ('BIFR' for short) under Sick Industrial Companies Act. The property was purchased at Rs.11,65,40,000/-. Some disputes arose as the State of Uttar Pradesh raised certain objections in respect of dues of the State and the matter reached this Court. Ultimately, by order dated 11.03.2016, the petitions were disposed of. Taking note of the fact that the applicant herein had paid the entire consideration in respect of the aforesaid property, direction was given to the State Government to register the sale deed in favour of the applicant herein.

We may note at this stage that stamp fee, as per the Stamp Act, payable on the aforesaid consideration of the property, i.e., Rs.11,65,40,000/- is Rs.1,16,54,000/- i.e., 10 per cent of the total sale consideration, which was duly paid by the applicant. However, respondent-State has refused to register the sale deed and the stand taken is that the actual value of the property is much more and, therefore, it would attract much higher stamp duty.

Learned counsel appearing for the respondent-State, in support of the aforesaid stand taken by the Government, has drawn our attention to the communication dated 04.06.2016

addressed by Additional Collector (Finance and Revenue) Bareilly to the Commissioner, Bareilly Division, Bareilly, wherein it is stated that the valuation of the property done now is in accordance with Article 23(1) Schedule I-B of the Stamp Act. Learned counsel for the applicant disputes the aforesaid position on two grounds. In the first instance, it is submitted that the property was purchased in open auction in the manner stated above and it was duly approved by the State of Uttar Pradesh at that time. On that basis, entire stamp duty was paid. Therefore, there cannot be valuation of the property in today's date. Learned counsel for the applicant has drawn our attention to Article 23, which is an amendment to the Stamp Act applicable in the State of Uttar Pradesh. Explanation thereof stipulates that in case of an agreement to sell an immovable property, where possession is delivered before the execution or at the time of execution, or is agreed to be delivered without executing the Conveyance, the agreement shall be deemed to be a Conveyance and stamp duty thereon shall be payable accordingly.

It is pointed out that in the instant case, the possession of the property was delivered after the applicant had purchased the said property in the auction and paid the consideration, i.e., at the time of registration of agreement to sell, and at that time the stamp duty as aforesaid was paid.

We find merit in the contentions raised by the learned counsel for the applicant. In view of the aforesaid fact that when the stamp duty was paid at the time of execution of agreement to sell and registration, it is not open to the respondent-State to value the property in today's date again and demand the stamp duty.

We, thus, allow these applications with a direction to the Registrar to register the sale deed as per the approved procedure within one month.

The interlocutory applications stand disposed of.

(Nidhi Ahuja)  
Court Master

(Mala Kumari Sharma)  
Court Master