

Calcutta High Court

State Of West Bengal And Ors vs Bimal Kumar Dutt And Ors on 15 June, 2022

OD- 1

APO/2/2021  
With  
WP/211/2020  
IA No. GA/2/2022

IN THE HIGH COURT AT CALCUTTA  
Civil Appellate Jurisdiction  
ORIGINAL SIDE

STATE OF WEST BENGAL AND ORS.

-VS-

BIMAL KUMAR DUTT AND ORS.

BEFORE:

The Hon'ble JUSTICE HARISH TANDON

The Hon'ble JUSTICE SHAMPA DUTT (PAUL)

Date : 15th June, 2022.

Appearance:

Mr. Samrat Sen, Sr. Adv.  
Mr. Sirsanya Bandopadhyay, Adv.  
Mr. Arindam Mondal, Adv.  
Mr. Arka Kr. Nag, Adv.

Mr. Aniruddha Mitra, Adv.  
Mr. Dhilon Sengupta, Adv.  
Mr. Anirban Ghosh, Adv.  
Ms. Madhurima Sarkar, Adv.

The Court : The dispute pertains to the consideration money shown in the deed of sale to be the market value of the property, which it would or would have fetched if sold in the open market. The respondents raised

queries and indicated that the consideration money shown in the said sale deed is not the market price of the property which it would or would have fetched if sold in the open market and demanded the differential amount on account of stamp duty and registration fees.

The writ petition was filed challenging such action of the respondent authorities and was disposed of directing the registration of the deed of conveyance treating the market value as determined by this Court. The instant appeal was filed assailing the said order and at the time of admission, the Division Bench on 25th February, 2021, passed an interim order directing the appellant no.4 to compute and determine the stamp duty and registration fees payable if the value of the property is taken at Rs.5,34,09,258/- and communicate the same within seven days from that date. Further

direction was passed upon the State respondent to also compute and determine the stamp duty and registration fee payable if the value of the property is taken at Rs.92 lakhs. The Division Bench further directed that upon payment of the stamp duty and the registration fees admissible on the value of the property if taken at Rs.92 lakhs and upon compliance of all other formalities required for registration of such deed, the registering authority will return the conveyance subject to the final determination. However, the appellant was directed to secure the differential amount on account of stamp duty and registration fees by way of a bank guarantee in favour of the Registrar, High Court, Original Side of any nationalised Bank and shall continue to renew the same until further order that may be passed in the instant appeal.

The instant application has been taken out by the respondents seeking an order to encash the bank guarantee furnished with the Registrar, High Court, Original Side and pay the entire amount as determined by the registering authority on account of stamp duty and the registration fees leviable on the basis of the valuation shown in the circle rate. The appellant has no objection as the stamp duty and the registration fees leviable on the basis of a circle rate is required to be paid by the respondents and in fact have agreed to pay the same. The only point which involved in the instant application is the modalities regarding the payment of the said amount. We have been given to understand that pursuant to the order of the Division Bench passed on 25th February, 2021, the registration has been done subject to the conditions mentioned therein upon the deposit of the stamp duty and the registration fees leviable at the consideration price of Rs.92 lakhs through online portal and after the registration of the deed the concerned department has to unlock the portal for further payment leviable on the registered document. The aforesaid condition appears to be reasonable as the system has been generated in recent past for deposit of the stamp duty and the registration fees through online portal. Since the respondents have agreed to abandon the claim raised in the writ petition and accepted the valuation determined by the registering authority as market value and the payment of the stamp duty and registration fees leviable thereupon, we do not think that there remains any further consideration in the instant appeal. We, thus, take up the appeal and all the applications pending together in view of the stands having taken by the respondents in the instant appeal.

The application being IA No/GA/2/2022 is disposed of with the following directions:

- i) The Registrar, High Court, Original Side is directed to hand over the bank guarantee furnished by the respondent no.1 being 05371GF1N000121 dated 18th March, 2021 for a sum of Rs.36,28,741/- to the respondent no.1 on or before 17th June, 2022, subject to an undertaking given by the respondent no.1 that after the surrender of the said bank guarantee with the issuing bank, they would pay the said amount with the registering authorities through electronic payment on the date when the portal is opened in terms of this order for such payment.
- ii) The respondent no.1 shall take steps to surrender the bank guarantee to the issuing bank and the remittance shall be kept in the account maintained by the said respondent and shall not be dealt with for any purpose except for the purpose of the payment of the stamp duty and the registration fees leviable on the said deed of conveyance through an electronic payment on the date and time when the portal shall be opened for payment. The respondent no.1 shall ensure that the entire

formalities pertaining to this surrender of the bank guarantee and the remittance of the money in the bank account are completed on or before 27th June, 2022.

iii) The appellant authority shall take steps and ensure that the portal for electronic payment in relation to the deed of conveyance executed in favour of the respondent no.1 is unlocked and opened on 11th July, 2022 between 10 am till 12 midnight.

iv) The respondent no.1 shall make the online payments of the entire amount for which the bank guarantee was furnished to this Court during the period when the portal is unlocked and capable of receiving the payments and the moment the payment is made as aforesaid, the registering authority on production of the receipt generated through such portal shall make a note in the register as well as the sale deed that the conditions imposed in the order dated 25th February, 2021 is no longer subsisting.

It goes without saying that at the time of filing the receipt showing the payment of the stamp duty and the registration fees for which the bank guarantee was submitted before this Court, the respondent no.1 shall also produce the original sale deed so that the conditions recorded therein are deleted and/or omitted.

With these orders, the application being APO/2/2021 with WP/211 of 2020 and all connected applications are disposed of. Liberty is granted to the parties to approach this Court in the instant appeal in the event the circumstance and the situation so warrants for appropriate orders.

(HARISH TANDON, J.) (SHAMPA DUTT (PAUL), J.) bp.