

M/S. ANSAL HOUSING AND CONSTRUCTION LIMITED

v.

STATE OF UTTAR PRADESH AND OTHERS

(Civil Appeal Nos. 2582-2584 Of 2016)

MARCH 09, 2016

**[KURIAN JOSEPH AND ROHINTON FALI NARIMAN, JJ.]**

*Stamp Act, 1899 – ss.33/47A – Stamp duty – Payment of, by the developer and the allottees u/ss. 33/47A – On facts, in a writ petition filed by the developer, in respect of the bipartite agreement between the State and the developer, the High Court relegated the developer to the competent authority – However, in the writ petitions filed by the allottees of the developer, in respect of the tripartite agreement between the State on the one hand and the developer and allottees on the other hand, the High Court held that full stamp duty is payable on the basis that the arrangement is a lease – On appeal held: High Court was not justified in adjudicating the issue when there is a statutory scheme provided for adjudication of such issues by the competent authorities concerned – In respect of writ petition filed by allottees of the developer, parties relegated to the competent authority under the Stamp Act for the adjudication of the dispute – In writ petition filed by the developer, authorities have passed orders and matter is pending before the High Court and the same is to be disposed of expeditiously.*

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2582-84 of 2016.

From the Judgment and Order dated 04.08.2011 in Writ-C No. 40656 of 2004 and order dated 16.08.2011 in Civil Misc. Writ Petition No. 73277 of 2010 and order dated 16.08.2011 in Misc. Writ Petition No. 56556 of 2010 passed by the High Court of Judicature at Allahabad.

Sachin Datta, S.R. Singh, Sr. Advs., Ms. Dharitry Phookan, Vibhu Tiwari, Ravi Prakash Mehrotra, Chandra Prakash, Rameshwar Prasad Goyal, Sudeep Kumar, Vinay Garg, R.R. Rajesh, (For Mr. Brajesh Kumar) Advs. for the appearing parties.

The Judgment of the Court was delivered by

A           **KURIAN, J.** 1. We have heard learned counsel for the parties.

2. Leave granted.

3. The short issue raised in these appeals pertains to the stamp duty payable by the developer and the allottees under Sections 33/47(A) of the Indian Stamp Act, 1899.

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4. In a writ petition filed by the developer, in respect of the bipartite agreement between the State and the developer, the High Court by judgment dated 4<sup>th</sup> August, 2011 relegated the developer to the competent authority. However, in the writ petitions filed by the allottees of the developer, by another judgment dated 16<sup>th</sup> August, 2011, the High Court took the view that even in respect of the tripartite agreement between the State on the one hand and the developer and allottees on the other hand also, full stamp duty is payable on the basis that the arrangement is a lease. Before us, several contentions are taken, some of which we may refer below :-

C

1. Whether the tripartite agreement qua the allottees is a lease, is a matter to be adjudicated by the competent authority and therefore, the High Court was not justified in going to that issue;

2. The allottees were in any case exempted from payment of the stamp duty.

D

There are a few other contentions as well.

5. In our view, bereft of the required materials before the High Court, the Court was not justified in adjudicating the issue at the first instance when there is a statutory scheme provided for adjudication of such issues by the competent authorities concerned.

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6. In that view of the matter, without expressing any further opinion, we set aside the judgment dated 16.8.2011 in Civil Miscellaneous Writ Petition No. 73277 of 2010 and other connected matters. The parties are relegated to the competent authority under the Indian Stamp Act in the State of Uttar Pradesh for the adjudication of the dispute. We direct the Authority concerned to issue notice to the parties, hear them and pass final orders on merits on the dispute within a period of six months from today.

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7. As far as Writ Petition 40656 of 2004 filed by the developer leading to the Judgment dated 4.8.2011 is concerned, we are informed

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that during the pendency of the special leave petition before this Court, the adjudicating authority has passed an order on 16.1.2015 and thereafter the matter was carried before the appellate authority and the appellate authority passed an order on 22.4.2015 and the issue is now before the High Court. It appears that the authorities have passed such orders on different dates and therefore, similar other matters are consequently before the High Court. A  
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8. Therefore, we express no opinion on the legality or otherwise of the orders passed by the competent authorities, since it is for the parties to take up all available contentions before the High Court and it is for the High Court to pass appropriate orders. C

9. Having regard to the fact that the issue has been pending since long, we request the High Court to dispose of the writ petitions expeditiously.

10. The civil appeals are, accordingly, disposed of.

11. No order as to costs. D

Nidhi Jain

Appeals disposed of.