

(2013) 07 CAL CK 0007

Calcutta High Court

Case No: W.P. No. 20098 (W) of 2013

Bidhan Nirman Pvt. Ltd.

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision: July 18, 2013

Citation: (2013) 5 CHN 6

Hon'ble Judges: S. Banerjee, J

Bench: Single Bench

Judgement

S. Banerjee, J.

The petitioners complain of the Collector under the Stamp Act having made an assessment of the stamp duty after arbitrarily determining the market value of the property without indicating how the determination was arrived at. Section 47A(5) of the Stamp Act as applicable in the State requires the authority concerned affording the parties a reasonable opportunity of being heard and obliges such authority to hold an enquiry for the purpose of determining the market value of the property which is the subject-matter of the instrument. The petitioners refer to the printed form of demand which the petitioners have been furnished without the relevant authority indicating any basis for the determination of the market value of the property. The relevant form may be used as an abstract of the demand, but the reasons in respect of the determination have otherwise to be indicated by the authority. It would be a meaningless exercise, of giving a person an opportunity of hearing without the authority being required to deal with the salient point of the submission made on behalf of such party. Whenever a statute requires an opportunity of being heard to be given, it necessarily follows that the submission must be dealt with by the authority before arriving at the decision.

2. Since the basis for determining the market value of the property is not indicated by the authority in this case, W.P. No. 20098(W) of 2013 is allowed by setting aside by the order of assessment of May 29, 2013 and by directing the authority to consider the matter afresh and pass a reasoned order.

3. The appropriate authority will conduct the exercise afresh by giving the petitioners an opportunity of hearing and by presenting to the petitioners all material that the authority seeks to rely on in respect of the assessment or the determination of the market value of the property.
4. The petitioners have referred to Rule 3(8) of the West Bengal Stamp Act (Prevention of Undervaluation of Instruments) Rules, 2001 for the requirement therein of a reasoned order being passed. Even if the Rules had not specified the necessity, for recording reasons, the same has to be implied from section 47A(5) of the Stamp Act as applicable in the State.
5. There will be no order as to costs. Urgent certified photocopies of this order, if applied for, will be made available to the parties subject to compliance with all requisite formalities.