

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**WRIT PETITION No. 17420 of 2023**

**BETWEEN:-**

**SHRAMIK JANTA SANGH THROUGH ITS  
PRESIDENT C/O SHYAM BHADANE VILL.  
MAGARKHEDI, POST SATRATI, TEH.  
KASARAWAD, DIST. KHARGONE (MADHYA  
PRADESH)**

**.....PETITIONER**

**(BY MS. MEDHA PATKAR )**

**AND**

- 1. THE COLLECTOR OF STAMPS KHARGONE  
(MADHYA PRADESH)**
- 2. SUB REGISTRAR DISTRICT KHARGONE  
(MADHYA PRADESH)**
- 3. CENTURY TEXTILE AND INDUSTRIES  
LIMITED THROUGH DIRECTOR/ AUTHORISED  
REPRESENTATIVE VILLAGE AND POST  
SATRATI, A.B. ROAD, DISTRICT KHARGONE  
AND CENTURY BHAVAN, DR. ANNIE BASENT  
ROAD, CENTURY BAZAR, WORK MUMBAI  
(MAHARASHTRA)**
- 4. MANJEET GLOBAL PVT. LTD. THROUGH  
DIRECTOR/ AUTHORISED REPRESENTATIVE  
318, N-3, CIDCO JALNA ROAD, NEAR PUNJAB  
NATIONAL BANK AURANGABAD  
(MAHARASHTRA)**
- 5. MANJEET COTTON PVT. LTD. THROUGH  
DIRECTOR/ AUTHORISED REPRESENTATIVE  
318, N-3, CIDCO JALNA ROAD, NEAR PUNJAB  
NATIONAL BANK AURANGABAD  
(MAHARASHTRA)**

**.....RESPONDENTS**

**(BY MS. GEETANJALI CHOURASIA, P.L./G.A. FOR RESPONDENT NOS.1 AND 2/STATE, SHRI A.S. GARG, SENIOR ADVOCATE WITH SHRI SUDEEP BHARGAVA, ADVOCATE FOR RESPONDENT NO.3 AND SHRI R.S. CHHHABRA, SENIOR ADVOCATE WITH SHRI ROHIT SABOO, ADVOCATE FOR RESPONDENT NOS.4 AND 5.)**

.....  
Reserved on : 07.02.2024

Pronounced on : 13.03.2024  
.....

*This petition having been heard and reserved for orders, coming on for pronouncement this day, the court passed the following:*

**ORDER**

Heard on Document Nos.447/2024 and 448/2024 which have been filed by the respondent Nos.4 and 5 respectively, raising the preliminary objections regarding maintainability of the petition.

2] This petition has been filed by the petitioner *Sharamik Janta Sangh* through its President, under Article 226 of the Constitution of India, against the order dated 21.02.2023 passed by the Collector of Stamps, Khargone, District Khargone whereby, Collector of Stamps has rejected the reference under Section 48B of the Indian Stamps Act, 1899 (hereinafter referred to as 'the Act of 1899') holding that the valuation of the property was carried out by his office only while exercising powers under Section 31 of the Act of 1899 and thus, he has no jurisdiction to review his own order dated 28.06.2021 on the allegation of insufficiency of the stamp duty on the sale deeds through which the disputed property has been sold.

3] The application Document Nos.447/2024 and 448/2024 have been filed mainly on two grounds, (i) That the petitioner *Shramik Janta Sangh* has no *locus standi* to file the petition, which has no connection with workmen or labourers of the respondent Manjeet Cotton Private Ltd. (ii) The other objection which has been raised is that the petitioner has an efficacious alternative remedy in the form of an objection under Section 56(4) of the Act of 1899.

4] Learned senior counsels appearing for the respondents have submitted that the stamp duty was paid by the respondent after the same was certified by the respondent No.1 by way of adjudicatory proceedings under Section 31 of the Act of 1899. Thus, it is submitted that after the adjudication was made, a certificate was also issued under Section 32 of the Act of 1899, and based on the certificate, the sale deed has been executed between the parties on the stamps as advised by the Stamp Collector, thus, the question of deficit stamp duty cannot be raised by the petitioner in any proceedings because the sale deed cannot be said to be undervalued.

5] Counsel for the respondents have also drawn the attention of this Court to Section 56(4) of the Act of 1899, in which it is provided as under:-

**“56. Control of, and statement of case to, Chief Controlling Revenue authority-**

(1)xxxxx

(2)xxxxx

(3)xxxxx

(4) The Chief Controlling Revenue authority may, on its own motion or on the application by any party, at any time for the purpose of satisfying itself as to the amount with which the instrument is chargeable with duty, call for and examine the record of any case disposed of by the Collector and may pass such order in reference thereto as it thinks fit:

Provided that it shall not vary or reverse any order unless notice has been served on the party concerned and opportunity given to him for being heard:

Provided further that no application for revision shall be-

- (i) Entertained against an order appealable under this Act;
- (ii) Entertained unless presented within ninety days from the date of order and in computing the period aforesaid, the time requisite for obtaining copy of the said order shall be excluded.”

*(Emphasis Supplied)*

6] Thus, it is submitted that otherwise also, the petitioner can challenge the aforesaid order before the Chief Controlling Revenue Authority and the petition itself is misconceived.

7] On the other hand, Ms. Medha Patkar, on behalf the petitioner, has vehemently opposed the application and it is submitted that no case for interference is made out as the petitioner Union is competent to file this petition, being the body of the workmen of the respondent Company, and so far as the objection regarding the alternative remedy is concerned, it is submitted that in the impugned order itself it is clearly observed by the Collector Stamps that it is liable to be changed if it is found that the duty is insufficient.

8] Heard. On due consideration of submissions and on perusal of the documents filed on record, it is found that so far as the order dated 28.06.2021 is concerned, the same was passed on an application filed by the respondents under Section 31 of the Act of 1899. So far as Section 31 is concerned, the same reads as under:-

**“31. Adjudication as to proper stamp. —(1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than 3 [fifty naye paise]) as the Collector may in each case direct, the Collector shall determine the**

duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Provided that—

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable; and

(b) every person by whom any such evidence is furnished, shall, on payment of the full duty with which the instrument to which it relates, is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.”

*(Emphasis Supplied)*

9] A perusal of the aforesaid section clearly reveals that it does not provide that the order passed under the same can be revisited by the Collector on any objection, and admittedly, after the order was passed on 28.06.2021, a Certificate has also been issued under Section 32 of the Act of 1899. In such circumstances, while passing the order under Section 31, even if the Collector has observed that it is liable to be changed, this Court is of the considered opinion that such an observation is *non-est* and does not confer any power of review on the Collector as it is trite that power of review cannot be exercised *suo moto* unless provided by the statute. In this regard, reference may be had to the decision rendered by the Supreme Court in the case of ***Kalabharti Advertising Vs. Hemant Vimalnath Narichania and Others*** reported as (2010) 9 SCC 437, the relevant paras of which read as under:-

***“Review in absence of statutory provisions***

**12.** It is settled legal proposition that unless the statute/rules so permit, the review application is not maintainable in case of judicial/quasi-judicial orders. In the absence of any provision in the Act granting an express power of review, it is manifest that a review could not be made and the order in review, if passed, is ultra vires, illegal and without jurisdiction. (Vide Patel Chunibhai Dajibha v. Narayanrao Khanderao Jambekar and Harbhajan Singh v. Karam Singh.)

**13.** In Patel Narshi Thakershi v. Pradyuman Singhji Arjunsinghji, Major Chandra Bhan Singh v. Latafat Ullah Khan, Kuntesh Gupta (Dr.) v. Hindu Kanya Mahavidyalaya, State of Orissa v. Commr. of Land Records and Settlement and Sunita Jain v. Pawan Kumar Jain this Court held that the power to review is not an inherent power. It must be conferred by law either expressly/specifically or by necessary implication and in the absence of any provision in the Act/Rules, review of an earlier order is impermissible as review is a creation of statute. Jurisdiction of review can be derived only from the statute and thus, any order of review in the absence of any statutory provision for the same is a nullity, being without jurisdiction.

**14.** Therefore, in view of the above, the law on the point can be summarised to the effect that in the absence of any statutory provision providing for review, entertaining an application for review or under the garb of clarification/modification/correction is not permissible.”

*(Emphasis Supplied)*

**10]** In such circumstances, the only option left to the objector was to file an application under Section 56 of the Act of 1899, which provides that the Chief Controlling Revenue Authority can call and examine the record of any case disposed of by the Collector and pass such order in reference thereto, as it deems fit.

**11]** Resultantly, this Court is of the considered opinion that the present petition having been filed against the order dated 21.02.2023 by the Collector of Stamps, refusing to review his own order dated 28.06.2021, needs no interference, as the Collector has no power to review his own order and thus, the petition being misconceived, is

hereby *dismissed*. However, with liberty reserved to the petitioner to take recourse of Section 56 of the Act of 1899 for ventilation of its grievance.

**12]** It is made clear that this Court has not reflected upon the merits of the case, and if required, the parties are at liberty to raise all the grounds available to them under law.

**13]** With the aforesaid, the petition stands *disposed of*.

**(SUBODH ABHYANKAR)**  
**JUDGE**

Bahar