

HIGH COURT OF MADHYA PRADESH : JABALPUR**WRIT PETITION NO. 11039/2013**

Ramprasad and AnotherPetitioners

Versus

Central Valuation Board & OthersRespondents

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Coram:

Hon'ble Shri Justice A. M. Khanwilkar, Chief Justice
Hon'ble Shri Justice J.K. Maheshwari

Whether approved for reporting? : Yes

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Shri Siddharth Gupta, Advocate for the petitioners.

Shri Naman Nagrath Senior Advocate with Shri Jubin Prasad Advocate for the respondents.

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Reserved On : 06.10.2015

Date of Decision : 06.01.2016

J U D G M E N T

{ 06.01.2016 }

Per: A.M. Khanwilkar, Chief Justice:

1. This writ petition under Article 226 of the Constitution of India has been filed to question the validity of Rule 3(2)(b) of the Madhya Pradesh Preparation & Revision of Market Value Guidelines Rules 2000 (hereinafter referred to as

“Rules of 2000”) as ultra-vires Section 47A of the Indian Stamp Act, 1899 (hereinafter referred to as “Act of 1899”) and other provisions of the Act of 1899 and Madhya Pradesh Prevention of Under Valuation of Instruments Rules, 1975 (hereinafter referred to as Rules of 1975”). It is prayed that the abovesaid Rule be struck down as ultra-vires. It is further prayed that the Clauses in the market value guidelines for year 2013-14, 2014-15 and 2015-16, prescribing market value for the agricultural land in the State be also quashed and set aside as it impinges upon the discretion of the Registering Authorities.

2. Briefly stated, the petitioners claim to be Agriculturists and are engaged in occupation of Farming, which is their principal source of livelihood and income. They are the absolute owners and bhumiswamis of land being Khasra No.125/2 admeasuring 3.885 hectares at Village Misrod, Tehsil Huzur, District Bhopal (petitioner No.1); khasra No.6/2/3, admeasuring 1.331 hectares at Village Misrod, Tehsil Huzur, District Bhopal (petitioner No.2).

3. It is stated that the Parliament has enacted the Act of 1899 with the aims and objectives to consolidate the laws

relating to the stamps in India. Section 2(10) defines “conveyance” as including a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos*. Section 2(14) defines the expression “instrument” to include every document by which any right or liability is or purports to be created, transferred, limited, extended, extinguished or recorded. Reference is made to provision of Section 47A of the Act, as applicable to the State of Madhya Pradesh and Rules of 1975, which were in force until year 2000. The purport of the unamended provisions of the Act and the Rules came up for consideration before the Division of our High Court in the case of **Bala Prasad and another vs. State of Madhya Pradesh and others**¹. The Court held that the concerned Rule has had the effect of abrogating the power of the Registering Officer under sub-section (1) of Section 47A to draw his own conclusion. The Rule was, therefore, held to be ultra-vires - as it did not stand the test of Section 47A thereof. The Court held that the Registering Officer is a statutory functionary under the Act and his function cannot be taken away, abrogated or curtailed by a subordinate legislation.

¹ 1997(2) MPLJ 636 (DB) (para 8 to 11)

4. The petitioners have then adverted to the amended provisions of the Act and the Rules of 2000. According to the petitioners, amended Section 47A delegates the power to State Government to frame Rules limited to determination of “minimum value” of any immovable property. The purport of amended Section 47A in particular, sub-section (1) thereof, operates in different but limited field governing minimum value of immovable properties in the State. Section 75 of the Stamp Act authorizes the State Government to frame Rules for effectuating the purpose and various provisions of the Stamp Act. In furtherance of these provisions, the Rules of 1975 have been framed, under which, various physical and empirical parameters are reckoned, at the time of valuation of market value of any property which is the subject matter of instrument presented for registration. The Rules of 2000 have been enacted by the State Government prescribing the mode, manner and procedure through which the market value of various immovable properties subjected to stamp duties must be determined and fixed by various statutory authorities, as constituted and provided under the said Rules. Rule 2(e) of these Rules defines the expression “Market Value Guidelines”,

as the set of values of immovable properties in different Villages, Municipalities, Corporations arrived at by the respective Committees constituted under the said Rules for that purpose. Rule 3 provides for the constitution of a “Central Valuation Board”, which consists of around 12 members. The powers and functions of the said Board has been delineated in Rule 3(2), *inter alia*, to evolve norms for fixation of market values in respect of valuation of lands, buildings and various kinds of interests in the immovable property.

5. According to the petitioners, as per Rules of 2000, the Central Valuation Board has been invested with power to determine and evolve the norms to further the purpose underlying Section 47A(1), to determine the minimum value of any property. Rules 4 to 6 of the said Rules of 2000 provide for procedure to be followed by the Board/Committees in the process of determination of “minimum market value”. According to the petitioners, besides determination of minimum market value, the Board has been authorized to lay down norms regarding fixation of market value of the property, as predicated in Rule 3(2)(b). The additional power conferred in terms of Rule 3(2)(b), therefore, is unconstitutional. Because, it has the effect

of adding on to the already determined and finalized “minimum market value”, which cannot be enhanced otherwise than the procedure prescribed in Rules 4 to 6. For that reason, Rule 3(2)(b) is ultra-vires the power delegated to the Rule makers under Section 47A(1) of the Stamp Act. For, it has the effect of abrogating or curtailing the statutory powers of the Collector and Registering Officer to determine the market value under Section 47A; and for the same reason, the Schedules published by the Board regarding the market value of any immovable proper in the State is unconstitutional.

6. The petitioners rely on Rule 4(2) and 4(4), prescribing the powers and functions of the District Valuation Committee and Sub District Valuation Committee constituted under the Rules. For the purpose of determination of minimum market value, the Committees can only conduct survey, collect data and to arrive at an average figure after analyzing such data of which property of any area/circle ought to be valued for the purpose of *ad valorem* Stamp duties. The Board does not have the power to arbitrarily provide for the market values of the immovable lands in the State, which could be determined only under Section 47A of the Act. For which reason, the Schedules

issued by the Central Valuation Board, ostensibly in exercise of power under Rule 3(2)(b) regarding minimum market values, are ultra-vires. In case of an Agriculturist, whose main source of livelihood is agriculture, the stipulation provided in the Schedules issued on year-to-year basis has been enhanced arbitrarily to imaginary and exorbitant figures in the name of minimum market value. Further, by the same document, different sets of guidelines have been framed in relation to developed diverted residential/commercial land for determining the ‘minimum market value’ on per square meter plottable basis. These guidelines would perhaps be applicable to developed lands and built-up areas, which are so determined on a per square meter basis. Therefore, the same could not be applied to any agricultural land. The guidelines relating to irrigated and non-irrigated agricultural land determining the ‘minimum market value’ is on per-hectare basis. The guideline, however, would show that the same are consisting of agricultural lands, where the unit of computation is on a per hectare basis and is entirely different from the guidelines pertaining to developed diverted residential/commercial land. Thus, two sets of guidelines are entirely different, having

application to separate subject matters, though mentioned in the same schedule titled as “Market Value Guidelines for Agricultural Land 2013-14” (Annexure-P/3).

7. By the impugned Clauses in the said Schedule, it is envisaged that valuation of agricultural land must be done as a developed land, which is clearly impermissible in law. For, agricultural land cannot be treated as developed land until it is converted to non-agriculture use; and moreso, when heavy investment is required to be made to develop the land to make it capable of residential/commercial use. Clause 4 in the Schedule refers to agricultural land falling in Municipal/ Planning/Nagar Panchayat areas. The Schedule further provides that the land be sub-divided for computing market value. In that, upto initial 1000 square meters, to be valued as developed plots of the respective area and for the surplus area as per the market value guidelines fixed for irrigated agricultural land of the respective village/ area. These provisions are virtually carving out a different category of land; and the market value in respect of those lands will be determined irrespective of the factual position on the ground, which obviously must be a matter within the domain of the Registering Officer or Collector being quasi-

judicial in nature. The Collector, however, would be bound by the impugned Schedule issued by the Board. As a necessary consequence of which, the discretion to determine the current market value of the land, on case to case basis, by the Statutory Authority would be impaired and compromised. The Rules do not provide for any guidance as to how the market value of lands must be determined, much less, by the Central Board.

8. It is submitted that power to tax any object/subject alongwith its scope and power must be specifically defined and mentioned in the parent statute by the legislature itself. The same cannot be implied/inferred in absence of a clear mandate in that behalf. In support of these submissions, reliance has been placed on the decisions of the Supreme Court in the cases of **Ahmedabad Urban Development Authority vs. Sharad Kumar Jayantikumar Pasawalla and others²**, **M/s Lilasons Breweries (Pvt.) Ltd. and another vs. State of Madhya Pradesh and Others³**, **Bimal Chandra Banerjee vs. State of**

² (1992) 3 SCC 285 (para 7 & 8)

³ (1992) 3 SCC 293 (para 9 & 10)

Madhya Pradesh Etc.⁴ and Gupta Modern Breweries vs. State of J&K and Others⁵.

9. The petitioners further submit that the power delegated by Section 47A, in particular, Sub-section (1) is only for “fixation of minimum value” and nothing more. The minimum value is required to be fixed by the Competent Authorities (various Committees) by following the procedure prescribed in Rules 4 to 6 of the Rules of 2000. Minimum values/prices of properties within the concerned area - be it, agricultural land or otherwise – once notified under Rule 3 by the Central Valuation Board, cannot be altered by any subordinate authority as the power gets exhausted with the notification in that behalf. Therefore, the framing of Schedules prescribing artificial formulaes/multipliers are adding upto the minimum value of the various properties only to jack-up the stamp duty leviable. That, in any case, transcends beyond the power delegated by the legislator under Section 47A of the Act. For which reason, the Schedule prescribing for market value of the property by the Board should be quashed.

⁴ (1970) 2 SCC 467 (para 12 & 13)

⁵ (2007) 6 SCC 317

10. The petitioners have then invoked the doctrine of “*Delegatus Non Potest Delegare*”, to contend that the Authority empowered by the legislator is duty bound to exercise the power itself and cannot entrust/sub-delegate it further to its own agency. To buttress this argument, reliance has been placed on the decisions of Supreme Court in the case of **Siddharth Sarawgi vs. Board of Trustees for Port of Kolkata and Ors.**⁶, **A.K. Roy and another vs. State of Punjab and others**⁷, **Marathwada University vs. Sheshrao Balwant Rao Chavan**⁸ and **Kunj Behari Lal Butail and others vs. State of H.P. and others**⁹.

11. Relying on the dictum of the Supreme Court in these decisions, it was argued that the only source of power to frame the Schedules can be traced to Rule 3(2)(b) of the Rules of 2000 and nowhere else. The impugned Schedules are framed unilaterally by the Central Valuation Board itself, without involvement of the Committees under Rules 4, 5 and 6 of the same Rules. Therefore, it is opposed to the spirit of specified delegation under Section 47A, which expressly refers to

⁶ AIR 2015 SC 1271 (para 3,4,6 & 8)

⁷ (1986) 4 SCC 326 (para 11 & 12)

⁸ (1989) 3 SCC 132 (para 20 & 22)

⁹ (2000) 3 SCC 40 (para 13 & 14)

“minimum value” to be determined in accordance with the Rules. The State Government could not have sub-delegated it further to the Central Valuation Board, which has framed the impugned schedules.

12. It is then contended that Rule 3(2)(b) of the Rules of 2000 is hit by the vice of excessive delegation, conferring a parallel power on the Valuation Board to determine and evolve norms relating to determination of market value. The said provision does not lay down any guideline, policy or indication to limit the scope of exercise of powers in framing such norms. The Rules to that extent are ultra-vires having conferred unguided, uncontrolled, unfettered discretion in the hands of the Central Valuation Board. Rule 3(2)(b) also suffers from the vice of delegation of “essential legislative powers”, which is impermissible in law – absence of that delegation in the parent statute. The Act *per se* does not give any legislative power to the Central Valuation Board. If Rule 3(2)(b) was to be construed as authorizing the Central Valuation Board to do so, will be against the intendment of Section 47A of the Act. In support of this argument, reliance is placed on **District Registrar and**

Collector, Hyderabad and another Vs. Canara Bank and Others¹⁰ and B.B. Rajvanshi vs. State of U.P. and others¹¹.

13. It is then contended that power to determine “market value of any property” is quasi-judicial in nature and cannot be whittled down by the subordinate legislation or the Rules, unless expressly authorized in that behalf. Reliance is placed on the decisions in the case of **Balaprasad (supra)** and **Umesh Thakur and Others vs. State of Bihar and Ors.¹²** and **The Government of Tamil Nadu rep. by Special Secretary to Government, Commercial Taxes (J1 Department), The Inspector General of Registration and The District Registrar vs. S. Jayalakshmi and Ors.¹³.**

14. Taking the same argument forward, it was contended that market value has to be determined on case to case basis after evolving the factors and grounds mentioned in Rules 4, 5 and 6 of the Rules of 1975. The State Government cannot tinker with the said quasi-judicial discretion of the Authority through the Rule making power, much less, to be done by the Central Valuation Board by issuing Schedule for that purpose in the

¹⁰ (2005) 1 SCC 496

¹¹ (1988) 2 SCC 415

¹² (1994) 1 PAT LJR 727 (DB) (para 88 to 90, 98 to 100)

¹³ (2009) 1 CTC 305 (DB) (para 19, 20,25 & 27)

guise of norms. Notably, the Central Valuation Board consists of Senior Officers, above the rank of Collector. The Collector and also the Registering Officer would be, therefore, bound by the formulaes/multipliers prescribed by way of schedules issued by the Board.

15. It is then contended that stamp duty is always on the “instrument” and never on the “transaction”. By virtue of Schedule issued by the Central Valuation Board, however, the instrument will have to be interpreted on the basis of nature of transaction. That cannot be countenanced in view of the decisions in **Life Insurance Corporation of India vs. Dinanath Mahadeo Tembhekar and others**¹⁴ and **Nanakchand vs. Fattu**¹⁵.

16. It is submitted that the object of the Stamp Act is to apply to “instrument”, which attracts stamp duty. That is determined on the basis of recitals and contents and not on the basis of transactions preceding it or on notional basis. The impugned schedule, as published and in particular, the mathematical formulaes of valuation to determine the market

¹⁴ AIR 1976 BOM 395 (2009) (para 3)

¹⁵ AIR 1935 Lahore 567 (para 9)

value of the property referred to in the instrument would entail in indirect charging/levying stamp duty on the transaction and not on the instrument as such. That is impermissible and contrary to the object of the Stamp Act. Inasmuch as, Clause 4 of the Schedule relating to agricultural land prescribes two different rates of stamp duty for the same parties, for the same property, for the same transaction and over and above all for the same instrument of conveyance. The stamp duty cannot be determined on the basis of deeming/notional formula specified by the Board, which tantamounts to charging stamp duty on “transaction” and not on the “instrument”. It is submitted that sub-section (1) of Section 47 of the Act, as it stood prior to Rules of 2000, stipulated that if the Registering Officer appointed under the Registration Act, 1908 while registering any instrument, has reason to believe that market value of the property, which is subject matter of such instrument has not been truly set forth, he may refer the same to the Collector for determination of market value of such property and proper duty payable thereon. The purport of this provision has been examined by the Division Bench of our High Court in the case of **Smt. Ruma Shukla vs. State of M.P. & Ors.** which came up

for consideration being W.P.No.1712/2004. The same was disposed of on 17.01.2013 on the basis of statement made by the Deputy Advocate General for the State that the Act does not confer any authority on the Registering Officer i.e. the District Registrar and Collector (Stamps) to make division of plots for the purpose of charging notional stamp duty to be paid on the instrument, which infact disposed of the property jointly by one instrument.

17. These broad submissions have been made on behalf of the petitioners to question the validity of Rule 3(2)(b) of Rules of 2000, as also the impugned Clauses in the Schedules published by the Central Valuation Board prescribing for computation of market value in respect of agricultural land.

18. Per contra, the respondents while opposing this writ petition by filing reply-affidavit of DIG Registration Jabalpur and OIC, have asserted that Rules of 2000 have been framed by the State Government in exercise of powers under Section 47A read with Section 75 of the Act. These Rules lay down guidelines for determination of market value of the property. Rule 3 of the Rules of 2000 provides for constitution of the

Central Valuation Board, which is entrusted with the power to evolve norms for fixation of market value. That is complementary to the purpose of Section 47A for determination of market value of the property. According to the respondents, the grounds urged in the present writ petition are based on misunderstanding of the relevant provisions and are devoid of substance. It is stated that the present petitioners have filed this petition to wriggle out from the statutory implications. As a matter of fact, the question of justness of determination of market value of property owned and possessed by the petitioners would arise only when they intend to transfer their property. As of now, they are enjoying the property and carrying on their agricultural operations, as conceded by them in the writ petition. There is no indication in the writ petition that they have or intend to enter into any agreement to transfer their property. The cause of action to challenge the provisions of the Rules of 2000 would become available to the petitioners only after they enter into agreement for sale of their property. In that sense, the issue raised by the petitioners is academic. No cause of action has arisen for the petitioners to maintain this petition and for which reason, they have no locus to pursue the same.

19. It is stated in the reply-affidavit that the discretion of the Registering Officer to determine the market value of the property, which is subject matter of an instrument is in no way compromised or diluted. The fixation of value of any property in the concerned area by the Authority constituted for that purpose under the Rules of 2000, is to determine the minimum value of such properties and not the conclusive market value, which is within the domain of the Registering Officer. While determining the market value of the property, the Registering Officer has to reckon factors specified in Rule 5 of the Rules of 1975, which is independent exercise to be done by him; and not being influenced by the fixation of minimum value by the Authority constituted under the Rules of 2000, which is only for his guidance. It is stated that the basic object of framing Rules of 2000 was to prescribe minimum value for immovable properties on the basis of established principles of valuation to facilitate the Registering Officer to determine market value before registration of the instrument. The foundation of the Board constituted under Rules of 2000 is, essentially, to provide guidance to Registering Officers across the State to make objective assessment for determination of the market value of

the property in their respective jurisdictions. The Rules of 2000 permit revision of guideline by the Designated Authority on the basis of empirical data collated by the Authority and the inputs received from different stake-holders. In the reply-affidavit, justification is given as to why distinction has been made in respect of particular category of agricultural land and the factors that may have bearing in determination of market value of the concerned land to gauge the real value thereof and to arrive at a just decision by the Registering Officer. The impugned guidelines have been formulated after due approval of the Central Valuation Board, who is competent to evolve norms for fixation of market value. The respondents have also distinguished the decision of the High Court in the case of **Smt. Ruma Shukla** (supra) decided on 17.01.2013 and asserted that it is not a binding precedent, as it is based on wrong concession given by the Advocate for the State.

20. After the petitioners carried out amendment in the writ petition, the respondents moved application for leave to file detailed additional return dealing with the points raised in the amended writ petition, on 16.08.2015. The respondents finally filed application for taking additional documents on record on

08.09.2015, reiterating the objections raised in the return already filed on behalf of the respondents; and also asserted that the petition does not merit interference. In this response, it is stated that the competence of the State legislature to frame Rules of 2000 cannot be doubted nor that point has been raised by the petitioners. The challenge is limited to Rule 3(2)(b) of the guideline Rules of 2000 being ultra-vires the provisions of the Act. It is then stated that the guideline Rules of 2000 are nothing but simple guidelines providing norms and guidelines for area concerned for the purpose of determination of a proper market value of a particular property, for the guidance of the Registering Officer. The two slab rates in respect of agricultural land provided in the Rules of 2000, was necessitated due to increase in colonization and inevitable surge in the price of land within the Municipal limits. Such guidelines were within the competence of the State Legislature and not a case of excessive delegation. It is reiterated that the challenge to the impugned provisions at the behest of the petitioners should not be taken forward, who are not affected by the said provisions. It is stated that in fiscal statute, the steps taken by the Government can be *ad hoc* or experimental in nature. It is not open to contend that

some other norm would be better than the one being used by the State. Further, in the matter relating to fiscal statute longer latitude must be shown to the State Government in implementation thereto.

21. What is significant to notice from the final return filed by the State is about the commitment of the State that the powers of the Competent Authority under Section 47A will not be affected by the guidelines specified in Rules of 2000. The rates, referred to in the guidelines issued by the Competent Authority, are only for reference and not binding upon the Registering Authorities. The guidelines formulated under the Rules of 2000 are only treated as a ready reckoner and nothing more. To buttress this stand, reliance has been placed on different orders passed by the Registering Authorities during the relevant period whilst registration of the concerned instruments. The Registering Authorities in those cases determined the market value of the property much lower than the rates prescribed in the guidelines issued by the Authority under the Rules of 2000. It is stated that apprehension of the petitioners that the Registering Authority is bound to follow the guidelines issued under the Rules of 2000 because of empanelment of

Senior Officials in the Board, was misplaced. For, none of the Senior Officers, who are part of the Committee/Board, have power to decide the appeal against the decision of the Registering Authority. In other words, the Registering Authority was free to determine the market value as per the factors mentioned in Rule 5 of the Rules of 1975 on its own; and that the guidelines issued by the Committee/Board constituted under the Rules of 2000 were non-binding on the Registering Authorities. The distinction between the power exercised by the Committee/Board under the Rules of 2000 for fixation of minimum market value of the properties in the given area cannot be mixed up with the statutory powers vested in the Registering Officer to decide the claim of the parties and including for determination of market value within the meaning of Section 47A of the Act. The guidelines are issued only to bring uniformity in the process of valuation across the State at macro level; whereas, determination of market value by the Registering Authority is specific to the property, which is subject matter of instrument presented for registration.

22. The respondents have also highlighted that the petitioners have confused the issue of separate tax rate for the

same property with the issue of single rate of stamp duty. That is based on the market value of the property as determined by the Registering Authority. For such determination, it is open to the Authority to factor in the location and the special features that may be relevant for value addition of the property – such as, proximity to the road, etc. Those factors are already referred to in Rule 5 of the Rules of 1975. The guidelines only define the extent to which those factors may be considered for determination of market value of the property. In substance, it is stated that the market value guidelines formulated by the Committee/Board under Rules of 2000 must be treated only as a ready reckoner and only for guidance of the Registering Authority. These are the broad submissions made by the respondents. In support of these submissions, the respondents have relied on the reported decisions in **Himalaya House Co. Ltd. v. The Chief Controlling Revenue Authority and another**¹⁶, **Bala Prasad (supra), Birbal and others v. Deputy Director Consolidation Bulandshahr**¹⁷, **Chamkaur Singh and another v. The State of Punjab and another**¹⁸, **Vasireddi**

¹⁶ AIR 1972 SC 899

¹⁷ 1989 ALL.LJ 673

¹⁸ AIR 1991 Punjab and Haryana 26

**Bharata Rao and another v. Revenue Divisional Officer¹⁹,
 Jawajee Nagnatham vs. Revenue Divisional Officer,
 Adilabad, A.P. and others²⁰, Hamdard Dawakhana (Wakf)
 Lal Kuan, Delhi and another v. The Union of India and
 others²¹, Sardar Inder Singh v. The State of Rajasthan and
 others²², Kaka Singh v. The Additional Collector and
 District Magistrate (Finance and Revenue), Bulandshahr
 and another²³, Smt. Ramkishori Gupta v. The State of
 Madhya Pradesh and others²⁴, East India Tobacco Company
 ETC. vs. State of Andhra Prasad and another²⁵, R.K. Garg
 v. Union of India and others²⁶, Government of Andhra
 Pradesh and others v. P. Laxmi Devi (Smt.)²⁷, Chingalal
 Yadav v. State of M.P. and others²⁸, State of Madhya
 Pradesh v. Rakesh Kohli and another²⁹, Devachand and Anr.
 v. Hirachand Kamaraj,³⁰ State of Haryana and others v.
 Manoj Kumar³¹, Trideshwar Dayal and another v.**

¹⁹ 1992 (1) ALT 591

²⁰ (1994) 4 SCC 595

²¹ AIR 1960 SC 554

²² AIR 1957 SC 510

²³ AIR 1986 Allahabad 107

²⁴ AIR 1988 Madhya Pradesh 145

²⁵ (1963) 1 SCR 404

²⁶ 1981(4) SCC 675

²⁷ (2008) 4 SCC 720

²⁸ 2010 (2) M.P.L.J. 443

²⁹ (2012) 6 SCC 312

³⁰ (1889) ILR 13 Bom. 449

³¹ (2010) 4 SCC 350

Maheshwar Dayal and others³², R. Sai Barathi v. J. Jayalalitha and others³³, Prasadnagar Co-Operative Housing Society Ltd., Nagpur v. State of Maharashtra and others³⁴, Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona and another³⁵, Lal Chand v. Union of India and another³⁶, Bhupal Singh and others v. State of Haryana³⁷, Union of India and others v. Mangatu Ram and others³⁸, State of Punjab and others v. Mohabir Singh and others³⁹, U.P. Jal Nigam Lucknow Through its Chairman and another v. Kalra Properties (P) Ltd., Lucknow and others⁴⁰, Kishan Prakash Sharma and others v. Union of India and others⁴¹, Vasu Dev Singh and others v. Union of India and others⁴² and State of M.P. v. P.B. Menon and others⁴³.

23. Having considered the rival submissions, the primary question that arises for our consideration is : whether Rule 3(2)(b) of the Rules of 2000 is *ultra vires* Section 47A and 75 of

³² AIR 1990 SC 485

³³ (2004) 2 SCC 9

³⁴ 2005(2) Mh.L.J. 310

³⁵ (1988) 3 SCC 751

³⁶ (2009) 15 SCC 769

³⁷ (2015) 5 SCC 801

³⁸ (1997) 6 SCC 59

³⁹ (1996) 1 SCC 609

⁴⁰ (1996) 3 SCC 124

⁴¹ (2001) 5 SCC 212

⁴² (2006) 12 SCC 753

⁴³ AIR 2004 MP 117

the Act of 1899. The argument is not about the lack of legislative competence, as such. For, on a bare reading of Section 47A of the Act, it is seen that Rules can be and ought to be framed under the Act, for determining the minimum value of the property. The Rules of 2000 have been framed by the State Government in exercise of powers conferred by Section 75 read with Section 47A of the Act and all other enabling powers in that behalf. Before we examine this issue further, it is essential to advert to the relevant provisions in the Act, which deal with matters relevant for determination of liability to pay Stamp Duty as is prescribed by the Act. The Stamp Duty is payable with reference to the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable.

24. The following definitions may be useful for considering the matter in issue:

“2(6) “**Chargeable**” means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in [India] when such instrument was executed or, where several persons executed the instrument at different times, first executed;

2(10) “**Conveyance**” includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule 1 [or by

schedule 1-A, as the case may be;]

2(11) **“Duly stamped”**, as applied to all instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with law for time being in force in India;

2(14) **“Instrument”** includes every document by which any right or liability is, or purports to be, created, transferred, limited extended, extinguished or record;”

25. Section 3 provides for the liability of instrument to Stamp Duty. The same reads thus:-

“3. Instrument chargeable with duty -- Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that Schedule as the proper duty therefor, respectively that is to say-

- (a) Every instrument mentioned in that Schedule which, not having been previously executed by any person, is executed in India on or after the first day of July 1899;
- (b) Every bill of exchange [payable otherwise than on demand] or promissory note drawn or made out of India on or after that day and accepted or paid or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in India; and
- (c) Every instrument (other than a bill of exchange or promissory note) mentioned in that Schedule, which, not having been previously executed by any person, is executed out of India on or after that day relates to ally property situate, or to any matter or thing done or to be done, in India and is received in India.

[Provided that, except as otherwise expressly provided in this Act, and notwithstanding provided in this Act, and notwithstanding anything contained in clause (a), clause(b) or clause (c) of this section or in Schedule I, the amount indicated in Schedule I-A to this Act shall, be the duty chargeable on the instruments mentioned in clauses (aa) and (bb) of this proviso, as the proper duty thereof, respectively :-

- (aa) every instrument, mentioned in Schedule I-A as chargeable with duty under that Schedule, which not having been previously executed by any person, is executed in Madhya Pradesh on or after the commencement of the Central Provinces

- and Berar Indian stamp (Amendment) Act, 1939;
and
- (bb) every instrument mentioned in Schedule I-A as chargeable with duty under that Schedule, which not having been previously executed by any person, is executed, out of Madhya Pradesh on or after the commencement of the Central Provinces and Berar Indian Stamp (Amendment) Act, 1939 and relates to any property situated, or to any matter or thing done or to be done, in Madhya Pradesh and is received in Madhya Pradesh:]

Provided [further] that on duty shall be chargeable in respect of-

- (1) Any instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;
- (2) Any instrument for the sale, transfer or other disposition either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894, or under Act 19 of 1938, or the Indian Registration of Ships Act, 1841, as amended by subsequent Acts.
- [(3) any instrument executed, by, or, on behalf of, or, in favour of, the Developer, or Unit or in connection with the carrying out of purposes of the Special Economic Zone.

Explanation.- For the purposes of this clause, the expressions “Developer”, “Special Economic Zone” and “Unit” shall have meanings respectively assigned to them in clause (g), (za) and (zc) of Section 2 of the Special Economic Zones Act, 2005.]

[3-A. Instruments chargeable with additional duty—(1) Every instrument chargeable with duty under section 3, read with Schedule I-A shall, in addition to such duty, be chargeable with a duty of ten paise.

(2) The additional duty with which any instrument is chargeable under sub-section (1) shall be paid and such payment shall be indicated on such instrument by means of

adhesive stamps bearing the words [additional duty] whether with or without any other design, picture or inscription.

(3) Except as otherwise provided in sub-section (2), the provisions of this Act shall, so far as may be, apply in relation to the additional duties chargeable under sub-section (1) in respect of the instrument referred to therein as they apply in relation to the duty chargeable under section 3 in respect of those instruments.]”

26. Part D of Chapter II of the Act deals with the subject of valuation for duty. Sections 27, 28 and 29, as applicable to the State of Madhya Pradesh (as amended on 15.05.1975), read thus:-

“27. Facts affecting duty to be set forth in instrument– (1) The consideration, if any, the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

(2) In the case of instrument relating to immovable property chargeable with an ad valorem duty on the market value of the property, and not on the value set forth, the instrument shall fully and truly set-forth the annual land revenue in the case of revenue paying land, the annual rental or gross assets, if any, in the case of other immovable property, the local rates, municipal or other taxes, if any, to which such property may be subject, and any other particulars which may be prescribed by rules made under this Act.

28. Direction as to duty in respect of certain conveyances – (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit:

Provided that a distinct market value of each separate part is set-forth in the conveyance, relating thereto, and such conveyance shall be chargeable with ad-valorem duty in respect of such distinct market value of each such part.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or

by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with ad valorem duty in respect of the market value of the property relating to such distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same of any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with ad-valorem duty on the market value of the property so conveyed.

(4) Where a person having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with ad valorem duty in respect only of the market value of the property purchased by such sub-purchaser and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with ad-valorem duty in respect only of the market value of such residue:

Provided that the duty on such last mentioned conveyance shall in no case be less than five rupees.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with ad-valorem duty in respect of the market value of the property purchased by him or the market value of the property which is the subject matter of the conveyances and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to which would be chargeable on a conveyance for the market value of the property which is subject matter of conveyance or where such duty would exceed five rupees, with a duty of five rupees.

29. Duties by whom payable.- In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne, -

- (a) in the case of any instrument described in any of the following Articles of Schedule 1, namely—
- No. 2 (Administration Bond)
 - No. 6 (Agreement relating to Deposit
of Title deeds, Pawn or Pledge),
 - No. 13 (bill of exchange).

- No. 15 (Bond).
- No. 16 (Bottomry Bond).
- No. 26 (Customs Bond).
- No. 27 (Debenture).
- No. 32 (Further charge).
- No. 34 (Indemnity Bond).
- No. 40 (Mortgage-deed).
- No. 49 (Promissory-Note).
- No. 55 (Release).
- No. 56 (Respondentia Bond).
- No. 57 (Security-Bond or Mortgage-deed).
- No. 58 (Settlement).
- No. 62 (a) (Transfer of shares, in an incorporated company or other body corporate),
- No.62 (b) (Transfer of debentures, being marketable securities whether the debenture is liable to duty or not except debentures provided for by section 8).
- No. 62 (c) (Transfer of any interest secured by a bond, mortgage deed or Policy of insurance) by the person drawing, making or executing such instrument :
- (b) in the case of a Policy of insurance other than fire-insurance by the person effecting insurance;
- (bb) in the case of Policy of fire insurance -by the person issuing the Policy;
- (c) in the case of conveyance (including a reconveyance of mortgaged property) – by the grantee; in the case of a lease or agreement to lease by the lessee or intended lessee;
- (d) in the case of counterpart of a lease –by the lessor;
- (e) in the case of an instrument of exchange–by the parties in equal shares;
- (f) in the case of certificate of sale-by the purchaser of the property to which such certificate relates; and
- (g) in the case of an instrument of partition - by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue authority of civil Court or arbitrator in such proportion as such authority, Court or arbitrator directs.”

27. Ordinarily, the Stamp Duty on instrument regarding sale of agriculture land is payable by the purchaser (grantee) and not by the owner. Thus, the petitioners being owners of the agriculture land may not be required to pay the Stamp Duty and for which reason it is not open to them to raise issues including about the validity of Rule 3(2)(b). However, we may assume that the petitioners apprehend that the purchaser (grantee) may insist for sharing the liability towards the Stamp Duty with the petitioners and thus have approached the Court in anticipation.

28. The adjudication or determination of the duty payable or chargeable on the given instrument is done by the Collector under Section 31 of the Act. The same reads thus:-

“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 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 within 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 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.”

29. We may now turn to the crucial provision and with reference to which the petitioner is questioning the validity of Rule 3(2)(b) of the Rules of 2000. Section 47-A of the Act, as applicable to the State of Madhya Pradesh, reads thus:-

“47-A. Instruments undervalued how to be dealt with- (1) If the Registering Officer appointed under the Registration Act, 1908 (No. XVI of 1908), while registering any instrument finds that the market value of any property which is the subject matter of such instrument has been set forth less than the minimum value determined in accordance with any rules under this Act, he shall before registering such instrument refer the same to the Collector for the determination of the market value of such property and the proper duty payable thereon.

(1-A) Where the market value as set forth in the instrument is not less than the minimum value determined in accordance with any rules under this Act, and the Registering Officer has reason to believe that the market value has not been truly set forth in the instrument, he shall register such instrument and thereafter refer the same to the Collector for determination of market value of such property and proper duty payable thereon.

(2) On receipt of a reference under sub-section (1) the Collector shall after giving the parties a reasonable opportunity of being heard and after holding enquiry in such manner as may be prescribed, determine the market value of the property which is the subject matter of such instrument and the duty as aforesaid. The difference, if any, in the amount of duty shall be payable by the person liable to pay the duty.

(3) The Collector may suo-motu, within five years from

the date of registration of any instrument not already referred to him under sub-section (1) call for and examine the instrument for the purposes of satisfying himself as to the correctness of the market value of the property which is the subject matter of any such instrument and the duty payable thereon and if after such examination, he has reason to believe that the market value of such property has not been truly set forth in the instrument, he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-section (2). The difference if any in the amount of duty, shall be payable by the person liable to pay the duty:

Provided that noting in this sub-section shall apply to any instrument registered prior to the date of the commencement of the Indian Stamp (Madhya Pradesh Amendment) Act, 1975.

(3-A) For the purpose of inquiries under this Section, the Collector shall have the power to summon and enforce the attendance of witnesses including the parties to the instrument, or any of them and to compel the production of documents by the same means and so far as may be in the same manner, as is provided in the case of Civil Court under the Code of Civil Procedure, 1908 (Central Act No. V of 1908).

(4) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may, in the prescribed manner appeal against such order to the Commissioner who may either himself decide the appeal or transfer it to the Additional Commissioner of the division.

(5) Any person aggrieved by an order passed in appeal under sub-section (4) may in the prescribed manner appeal against such order to the Chief Controlling Revenue authority, Madhya Pradesh.

(6) Every first and second appeal shall be filed within thirty days from the date of the communication of the order against which the appeal is filed, alongwith a certified copy of the order to which objection is made and shall be presented and verified in such manner as may be prescribed:

Provided that in computing the period aforesaid, the time requisite for obtaining a copy of the order appealed against shall be excluded.

(7) The appellate authority shall follow such procedure as may be prescribed:

Provided that no order shall be passed without affording opportunity of being heard to the appellant.

(8) The order passed in second appeal, or where no second appeal is preferred the order passed in first appeal shall be final and subject to orders passed in first or second appeal, as the case may be, the order passed by the Collector under

sub-section (2) or sub-section (3) shall be final and shall not be called into question in any civil court or before any other authority whatsoever.

Explanation.— For the purpose of this Act, Market value of any property shall be estimated to be the price which in the opinion of the Collector or the Appellant Authority as the case may be such property would have fetched or would fetch if sold in the open market on the date of execution of the instrument.”

30. From the scheme of the provisions in the Act, as applicable to the State of Madhya Pradesh, it is amply clear that Stamp Duty becomes payable on the instrument not merely on the basis of the consideration amount mentioned therein but can also be levied on the basis of the market value determined by the Appropriate Authority. To enable the Appropriate Authority to determine the Stamp Duty, chargeable on the instrument, in case of under valuation thereof, the State Government has framed Rules of 1975, introduced vide Notification No.2404-3290-V-SR dated 13th June, 1975, in exercise of powers conferred under Section 75 read with Section 47-A of the Act. These Rules, however, deal with the general powers of the Registering Officer and the Collector in determination and levy of Stamp Duty on the instrument presented for registration. Rule 3 of this Rules obligates disclosure of specified particulars in the instrument as required by sub-section (2) of Section 27 of the

Act including in case of an instrument relating to agriculture land. Rule 3 reads thus:-

“3. Other particulars to be set forth in the instrument as required by sub-section (2) of Section 27 of the Act- The following particulars shall be fully and finally set forth in the instrument relating to immovable property chargeable with advalorem duty namely :-

(i) in case of an instrument relating to agricultural land the land revenue payable by the Bhumiswami of the adjoining agriculture land of the same class of soil, if the land which is the subject matter of instrument, is exempted from payment of land revenue or which has not been assessed to land revenue;

[(i-a) In case of an instrument relating to agricultural land assessed to land revenue:-

(a) name of the village with name of Revenue Inspector' circle, Tahsil and district wherein the land is situated; and

(b) whether the land is irrigated or not; and if irrigated, whether irrigation is for one crop only or for two crops.]

(ii) in case of an instrument relating to transaction of any immovable property in urban or rural area except agricultural land:-

(a) area of the plot and the area of the constructed portion thereon; and

(b) the year of construction.

[3A. Assessment of market rent of the lease executed by or on behalf of the State Government or any undertaking of State Government – In case of any property which is subject matter of a lease by the State Government or any undertaking of the State Government, the market rent would be the average annual rent and the market value shall be the amount or value of such fine, or premium or advance as set forth in the instrument.]

[3-B Market value of any property which is subject matter of conveyance by or on behalf of the Central Government or the State Government, shall be the value shown in the instrument.]”

31. Rule 4 prescribes for the procedure for considering the proposal referred to by the Registering Officer as per Section 47-A of the Act. Rule 5 of the Rules is of some relevance for considering the matter in issue. Rule 5 refers to the factors to be considered by the Collector for arriving at the market value of the land in respect of which instrument has been executed and presented for registration. Rule 5(a) deals with the factors relevant to instrument pertaining to land. The same reads thus:-

“5. Principle for determination of market value -
The Collector shall as far as possible have also regard to the following points in arriving at market value :-

- (a) the case of land:-
 - (i) classification of the land as dry, or wet and the like;
 - (ii) classification under various categories in the settlement register;
 - (iii) the rate of revenue assessment for each classification;
 - (iv) other factor which influence the valuation of the land in question;
 - (v) points, if any, mentioned by the parties to the instrument or any other person which require special consideration;
 - (vi) value of adjacent land or lands in the vicinity;
 - (vii) average yield from the land nearness to road and market, distance from village site, level of land, transport facilities, facilities available for irrigation in any form;
 - (viii) the nature of crops raised on the land.
- (b)
- (c)
- (d)

32. The other provisions in the Rules of 1975 deal with

the order to be passed by the Collector and the procedure including the remedy of appeal, which have no bearing on the question before us.

33. We may now turn to the Rules of 2000 which have been introduced vide Notification No.(60) B-4-4-2000-CTD-V dated the 31st July, 2000 framed in exercise of powers conferred under Section 75 read with Section 47-A of the Act and all other powers enabling in that behalf. The definition of “Market Value Guidelines” is specified in Rule 2(e), which reads thus:-

“2. Definitions—In these rules, unless the context otherwise requires:-

- (a)
- (b)
- (c)
- (d)
- (e) **“Market Value Guidelines”** means the set of values of immovable properties in different villages, Municipalities, Corporations and other local areas in the State, arrived at by the respective committee from time to time in terms of these rules;
- (f)

34. The constitution of the respective Committees have been specified in the Rules of 2000. Rule 3 refers to the constitution of Central Valuation Board. It also provides for the functions of the said Board. Rule 3 of the Rules of 2000 reads thus:-

“3. Constitution of Central Valuation Board and its functions – (1) The Central Valuation Board shall consist of –

1.	Inspector General of Registration	Chairperson
2.	Engineer in Chief, Public Works	Member

- | | | |
|----|--|-----------|
| | Department or his representative not below the rank of Chief Engineer. | |
| 3. | Director of Town and Country Planning or his representative not below the rank of Joint Director | Member |
| 4. | Commissioner of land records or his representative not below the rank of Deputy Commissioner | Member |
| 5. | Director Agriculture or his representative not below the rank of Joint Director | Member |
| 6. | Chief Conservator of forest or his representative not below the rank of Conservator of forests | Member |
| 7. | Any other members nominated by the State Government | Member |
| 8. | [Joint Inspector General of Registration (Authorized by the Inspector General of Registration in this regard). | Convener] |

- (2) The Board shall perform the following functions:--
- (a) receive information/data of property transactions entered by the District Valuation Committee alongwith the provisional rates for analysis and final approval.
- (b) evolve norms for fixation of market values in respect of valuation of lands, buildings and various kinds of interests in the immovable property.

NOTIFICATION

Notification No.(57) B-4-12-2000-CT-V dated the 20th December, 2000 – In exercise of the powers conferred by clause 7 of sub-rule (1) of Rule 3 of the Madhya Pradesh Preparation and Revision of Market Values Guideline Rules, 2000 the State Government hereby nominates the Heads of Civil Engineering Department and Architecture Department of Maulana Azad College of Technology as the members of the Central Valuation Board.

[Published in M.P. Rajpatra (Asadharan) dated 20-12-2000 page 1487]”

(emphasis supplied)

- 35.** The State Government in exercise of powers under clause 7 has nominated the Heads of Civil Engineering

Department and Architecture Department of Maulana Azad College of Technology as the members of the Central Valuation Board vide Notification No.(57) B-4-12-2000-CT-V dated 20th December, 2000.

36. The petitioner has challenged the validity of clause (b) of sub-rule (2) of Rule 3 in the present petition, being violative of Section 47-A of the Act, as applicable to the State of Madhya Pradesh.

37. Nevertheless, it may be useful to refer to Rule 4 of the Rules of 2000, whereunder the District Valuation Committee and Sub District Valuation Committee are constituted. The said Rule also specifies the functions of the concerned Committees.

Rule 4 reads thus:-

“4. Constitution of District Valuation Committee and Sub-District Valuation committee & their functions –
(1) District Valuation committee shall consist of-

- | | | |
|-------|---|-------------|
| 1. | Collector | Chairperson |
| [1-a. | A Member of Legislative Assembly from the Urban area of the concerned constituency as recommended by the Minister in charge of the district concerned | Member |
| 2. | Executive Engineer, Public Works Department | Member |
| 3. | Executive Engineer, Water Resources Department | Member |
| 4. | Commissioner Municipal Corporation or Chief Municipal Officer at the | Member |

	District Head Quarter	
5.	Chief Executive Officer, Zila Panchayat	Member
6.	Superintendent, Land Records/ Superintendent Division	Member
7.	Rent Control Officer	Member
8.	District Forest Officer	Member
9.	Chief Executive Officer, Development Agency/Deputy Commissioner M.P. Housing Board	Member
10.	Joint Director/Deputy Director Town and Country Planning	Member
11.	General Manager, Industries	Member
12.	District Registrar of the District Registry	Convener
[13.	Deputy Inspector General of Registration of that region or any other Senior District Registrar/District Registrar of that region nominated by the Deputy Inspector General of Registration other than Senior District Registrar/District Registrar of that particular district.	Member]

(2) The District Valuation Committee shall perform the following functions –

(a) collect information on property values and property trends which would be compiled in the form of primary data along with the existing data.

(b) analyse the proposed values in Forms I, II and III, as the case may be, alongwith other information received from the Sub-District construction rates, actual rates of the properties etc. compiled in the form of primary data and to fix the provisional values.

[(bb) notify the provisional values and to invite the suggestions of public thereon and to consider them.]

(c) send the provisional values for approval of Central Valuation Board and to issue the market value guidelines for different areas on approval.

(3) The Sub District Valuation Committee shall consist of –

1.	Sub Divisional Officer, Revenue	Chairperson
[1- A.	Chairman Janpad Panchayat, Sub-district Headquarter	Member

2.	Tahsildar/Naib Tahsildar	Member
3.	Assistant Engineer, Water Resources Department	Member
4.	Assistant Engineer, Public Works Department	Member
5.	Chief Municipal Officer/Or Commissioner Municipal Corporation or his nominee	Member
6.	Chief Executive Officer Janpad Panchayat or his nominee	Member
7.	Sub Divisional Officer, Forest	Member
8.	Sub Registrar	Convener

(4) The Sub District Valuation Committee shall perform the following functions:-

(a) collect and compile data pertaining to property values. For this purpose the data of average value on the basis of documents registered in the Sub Registrar Office, shall be provided by the Sub Registrar. In the absence of any sale transaction during that period, either sale instances of comparable land/property would be taken as the basis or the price may be increased as per price index. The information regarding the prevalent market value of the property shall be provided by patwaris through Tahsildar. The other informations like cost of construction, official sales, auction sales etc. would be collected by the Committee from the concerned offices.

(b) Analyse the data collected and to propose the values in the prescribed input forms and forward the same to the respective District Valuation Committee along with all the data and information collected.”

38. Rule 5 permits periodical revision of the Market Value Guidelines. Rule 6 of the Rules of 2000 refers to procedure to prepare Market Value Guidelines to be followed by the concerned Committees. Rule 7 specifies the formats of the forms for the Market Value Guidelines. Rule 8 makes it obligatory on the Convener of the District Valuation Committee to make available Market Value Guidelines prepared as per

Rules 6 and 7 to each Registering Officer. Rule 9 deals with the powers of the Inspector General of Registration and Stamps to order special revision of Market Value Guidelines necessitated because of circumstances mentioned therein leading to sudden appreciation of land values and in which case the revision can be done before the time frame specified in Rule 4(1) of the Rules. Rule 10 deals with the procedure to be followed by the Committees constituted under Rule 4 for the purpose of inquiry.

39. Notably, Rule 11 of the Rules of 2000 provides for remedy of representation to be made by the parties aggrieved by the revision shown in the Market Value Guidelines or if any Officer of the Department notices anomaly therein which can be referred to the Committee specified in Rule 4(1), who, in turn, can submit proposal to Inspector General of Registration for rectifying the anomaly in revision. The petitioners have obviously not availed of this remedy – presumably because the petitioners have raised wider issues and including the question of validity of the Rule empowering the Committee to notify Market Value Guidelines which, according to the petitioners, would inevitably impair the discretion of the Registering Officer or for that matter even the Collector in adjudication and

determination of the market value for computing the Stamp Duty leviable on the instrument concerned.

40. As aforesaid, the purport of Section 47-A of the Act, as applicable to the State of Madhya Pradesh, empowers the State Government to frame Rules for determination of the minimum value of any property, which is made subject matter of instrument presented for registration. This provision has not been challenged. Thus, the source of Rule making power has not been questioned.

41. Rule 3(2)(b) of Rules of 2000, which is the subject matter of challenge, in that sense, is in furtherance of the object and intent of the legislature predicated in Section 47-A of the Act. It empowers the Central Valuation Board to evolve norms for fixation of market values in respect of lands, buildings and various kinds of interests in the immovable property. By formulating norms for fixation of market value, which expression must be read as “minimum value” in the context of Section 47-A – is to bring in objectivity in the processing of reference and at the same time make it obligatory for the Registering Officer to make a reference to the Collector in respect of the instrument presented for registration in the event

of under valuation. It serves this twin purpose.

42. Indubitably, the Registering Officer has discretion to decide on the question of Stamp Duty chargeable on the given instrument, but, there is nothing wrong if the discretion is to be guided by some basic and minimum norms specified by the Competent Authority; and more so when such norms are laid down in the form of Market Value Guidelines after collating and analyzing the information of property values and property trends and also after inviting suggestions from the public. This is to ensure that the Registering Officer at his level, in the guise of discretion, does not allow registration of instrument which is undervalued than the benchmark prescribed in that behalf as per the guidelines or norms for fixation of market value approved by the Central Valuation Board constituted for that purpose under Rule 3 of the Rules of 2000. Instead, he must make a reference to the Collector for determination of the proper market value, as is the mandate of the provisions of the Act and the Rules made thereunder. Providing such objective standards is to ensure that the public is not inconvenienced or unduly harassed nor the State exchequer is denuded of just stamp duty payable on the given instrument because of the discretion bestowed on

the Registering Officer. Suffice it to observe that there is nothing wrong in empowering the Central Valuation Board to determine and specify the “minimum value” and to provide for procedure to be followed in that behalf, for which, framing of Rules would be the only way forward within the meaning of Section 47-A of the Act.

43. The expression ‘market value’ or for that matter ‘minimum value’ has not been defined in the Act or the Rules. The terms ‘minimum value’ and ‘market value’ occurring in Section 47-A of the Act or the Rules made thereunder, must be understood as fair market value, which, in the opinion of the Registering Authorities must be applied to the land, which is the subject matter of the instrument presented for registration; so as to determine the question whether the “consideration amount” disclosed in the instrument for the said land is just and proper or undervalued. The ‘minimum value’ in a given case may be distinct from the ‘market value’ of the land and also the “consideration amount” mentioned in the instrument with regard to the same land. The market value or minimum value can be area specific, but the consideration amount or the agreement value mentioned in the instrument would be the actual value of

the land “agreed to be paid and received by the parties” to the instrument.

44. Indeed, there can be difference between the fair “market value” of the property determined by the Registering Authorities; and the “minimum value” specified for such property by the Valuation Committee constituted for that purpose under Rule 4 of the Rules of 2000 and duly approved by the Central Valuation Board. For determining the market value, the Registering Officer or the Collector is expected to take into account factors specified in Rule 5 of the Rules of 1975. The Valuation Committee, on the other hand, while determining the “minimum value” of the properties area-wise not only reckon those factors, but also the empirical data collated and analysed along with suggestions of the public. The objective standards specified by the Valuation Committee/Board, facilitates the Registering Authorities in gauging the market value of the property including by taking into account factors specified in Rule 5 of the Rules of 1975.

45. If the “minimum value” of the property in the concerned area determined by the Valuation Committee/Board is in excess of the fair “market value” of the given property in that

area as determined by the Registering Officer or the Collector; but the Returning Officer or the Collector, was to still invoke the minimum value (higher amount) on the finding that he was bound by the same, only then, it will be open to argue that the discretion of the Registering Authorities to independently determine the market value has been impaired. But, if the “minimum value” specified by the District Valuation Committee is considered only as a guideline for the Registering Authorities; and if is less than the “market value” determined by them, in respect of the given property, the argument that the discretion of the Registering Officer or the Collector is impaired, cannot be taken forward and will be unavailable. The petitioners have not pointed out any specific instance where the Registering Authority has expressed its inability to charge stamp duty at a lesser rate – because of the higher “minimum value” prescribed by the Valuation Committee/Board. On the other hand, the respondents have placed on record instances where the Registering Officer or the Collector has determined “market value” of the given property at a rate lower than the “minimum value” specified by the Valuation Committee. This reinforces the argument of the State that the minimum value specified by the

Valuation Committee/Board is considered only as a guideline given to the Registering Authorities and not mandatory. Thus, it does not curtail the discretion of the Registering Authorities in processing the proposal for registration of the instrument presented before them in any manner – except to the extent of making it essential to make a reference to the Collector for determination of the market value of the given property.

46. Chapter I-A of the Act, as applicable to the State of Madhya Pradesh, refers to the proper Stamp Duty to be paid on the instrument presented for registration. The amount mentioned in the instrument, if we may say so, is the agreed amount (Agreement Value) between the parties to the instrument. The payment of Stamp Duty, however, is not limited to the amount so declared by the parties; but it is on the amount on which the parties are expected to pay the Stamp Duty as per the provisions of the Act and the Rules made thereunder. Thus, the liability to pay Stamp Duty is with reference to the fair “market value” of the land which is the subject matter of instrument and so determined by the Registering Authorities including the Collector. The factors relevant for determination of fair market value of land by the Registering Authorities, have been spelt out

in Rule 5 of the Rules of 1975. If the “agreement value” mentioned in the instrument presented for registration is found to be undervalued, the Registering Officer is under a legal obligation to submit reference to the Collector for determination of its market value to assess the proper Stamp Duty to be paid thereon. Prior to Rules of 2000, the determination of fair market value was done on case to case basis, giving unguided discretion to the concerned Registering Officer as well as the Collector. Considering the past experience of the State, about the inertia of the Registering Authorities and in some cases abuse of power; and more importantly resulting in generating avoidable litigation, the State Government decided to frame Rules of 2000 to specify the norms on which such determination ought to be made in future cases.

47. The Rules of 2000, therefore, must be understood as delineating norms for determination of “minimum value”, as required to be reckoned under Section 47-A of the Act. Indeed, the setting in which expression ‘market value’ is mentioned in Rule 3(2)(b) of the Rules of 2000, may have to be construed as “minimum value” for the purposes of Section 47-A. If so understood, the minimum value notified by the Valuation

Committee/Board, would only be a broad framework made available to the Registering Officer or the Collector, as the case may be, for processing the proposal for registration of the instrument and including determination of market value of the subject land.

48. Reverting back to the question whether Rule 3(2)(b) of the Rules of 2000 is *ultra vires* Section 47-A, in our opinion, that argument must be stated to be rejected. That Rule only enables the Central Valuation Board to evolve norms for fixation of market values (read minimum value) in respect of lands, buildings and various kinds of interests in the immovable property. If so understood, there is no conflict between Rule 3(2)(b) and the procedure specified in Section 47-A read with Rules of 1975. The procedure to be followed in Section 47-A by the Registering Authority to determine the “market value” of the land which is subject matter of instrument presented for registration; and the “minimum value” determined by the Valuation Committee/Board under the Rules, are two different matters. In that, the Valuation Committee/Board notifies the “minimum value” after collating information of property values and property trends in the concerned area from different sources

and including suggestions of the public in that regard. That is bound to mirror the prevalent market value of the property in the given area. The Registering Officer is also expected to determine the “market value” by reckoning factors specified in Rule 5 of the Rules of 1975, as specified in sub-clauses (i) to (viii) of clause (a) of Rules 5 of the Rules of 1975.

49. The fact that the Registering Officer and the Collector may follow the norm specified by the Valuation Committee/Board, regarding minimum value, because of the constitution of the said Committee or the Central Valuation Board who has approved the same, cannot be the basis to take the view that it is not open to the State Government to frame Rules to constitute Committees and empower them to formulate guidelines for the benefit or reference of the Registering Officer and the Collector. The specification of minimum value of the land in the given area by the Valuation Committee duly approved by the Central Valuation Board would certainly obviate commission of any mischief. Indisputably, the Registering Officer cannot allow registration of undervalued instrument, without making reference to the Collector to determine the market value on the basis of which the party to

the instrument can be called upon to pay proper stamp duty thereon.

50. Suffice it to observe that Rule 3(2)(b) of the Rules of 2000 is not in conflict with Section 47A of the Act, as applicable to the State of Madhya Pradesh. Rather, the same is complementary to the purpose and intent underlying the statutory obligation cast upon the Registering Authorities to determine proper stamp duty to be paid on any instrument presented for registration.

51. That takes us to the challenge to the stipulations in the market value guidelines for the year 2013-14, 2014-15 and 2015-16, prescribing minimum value of agricultural lands in the State. In the first place, we have no hesitation in observing that the said Guidelines have been notified by the Authority referred to in the Rules of 2000. Having rejected the challenge to the validity of Rule 3(2)(b) of Rules of 2000, no fault can be found with the said Authority for having issued the impugned Guidelines. It was competent to issue such Guidelines. The peripheral arguments to challenge the said Guidelines also deserve to be rejected, having accepted the unambiguous stand of the State that the Guidelines are only for the guidance of the

Registering Authorities and do not impinge upon their discretion to determine the proper or fair market value of the concerned property which is subject matter of instrument presented for registration. To buttress this stand, the respondent/State has relied on instances where the Registering Authority has determined the market value of the property, which was subject matter of instrument presented for registration, at a value lower than the minimum value prescribed in the Guidelines issued by the Valuation Committee duly approved by the Board for the concerned financial year of the given area. The petitioners, on the other hand, have not produced even a single instance to the contrary, indicative of Registering Authority having applied minimum value prescribed by the Valuation Committee/Board even after having found that the proper or fair market value of the concerned property was lower than the said amount. In any case, that is an issue which can be agitated by the affected party by way of statutory remedy and to point out that the Registering Authority was not bound or obliged to mechanically apply the minimum value of such property prescribed by the Valuation Committee/Board, in the fact situation of that case. As and when such grievance is made, that can be considered by the

appropriate forum before which it is made.

52. Understood thus, it is unnecessary to dilate any further on the validity of Guidelines issued by the Valuation Committee on year to year basis. Having said this, the exposition in the case of **Bala Prasad and another** (supra) will have no bearing inasmuch as, the impugned Guidelines in no manner abrogate or curtail the power of the Registering Authorities bestowed on them under Section 47-A of the Act and Rules made thereunder.

53. Reverting to the argument of the petitioners that two slab rates are specified in the Guidelines. We hold that even this grievance is without any substance. For, this argument is in ignorance of the provisions in the Act and the Rules – which postulate that the same (one) rate of stamp duty is payable in respect of the agricultural land. The Rules framed under the Act do not provide for two slab rates as such. Further, the Rules specify the factors that may be relevant for determination of fair and proper market value of the property (agricultural land) for the purpose of valuation and computation of stamp duty therefor. The factors which are referred to in the Guidelines can be traced to Rule 5 of the Rules of 1975, which provide for

principles for determination of market value in case of land including agricultural land. The Guidelines on the contrary define the extent to which those factors can be reckoned for the purpose of valuation and determination of market value of the agricultural land situated in a particular area – urban or rural, as the case may be. That does not mean that two slabs of stamp duty is paid on the same instrument or that the levy is on transactions, as is contended.

54. The fact that in the process of determination of market value the location of the land and peculiar advantages specific to such land, if taken into account does not result in two slab rates applied for the same instrument. Reliance placed on the decision of the Division Bench of this Court in the case of **Ruma Shukla** in W.P. No.1712/2004 decided on 17.1.2013 is inapposite. For, it is an order passed by the Court on the basis of statement of Dy. Advocate General for the State that it is not open to the Registering Officer to make division of plot for the purpose of charging stamp duty. The decision pressed into service cannot be cited as a binding precedent nor has it decided the legal position analysed by us in this judgment. Further, it is well settled position that there can be no estoppel against the

law. As the prevalent law permits determination of market value of the property by factoring the advantages attached to the property – because of its location and topography – that enjoins duty on the Registering Authorities to do so. Inasmuch as, these very principles are predicated in Rule 5 of the Rules of 1975 (which provision has not been challenged), for determination of market value of the property and levy of stamp duty. Thus, it does not mean that Stamp Duty is ascribable to transaction, as is contended. The liability to pay Stamp Duty is with reference to the instrument – on agreement value or market value, as the case may be. Whether the factors are correctly applied or otherwise can be considered on case to case basis. The decision in the case of **Life Insurance Corporation of India** (supra) and **Nanakchand** (supra) pressed into service by the petitioners, therefore, will be of no avail. The argument under consideration, therefore, cannot be the basis to set aside the Guidelines issued by the Valuation Committee and duly approved by the Board, which are in vogue.

55. The next argument of the petitioners about impermissibility of issuing the impugned Guidelines by the Appropriate Authority on the doctrine of *Delegatus Non Potest*

Delegare also does not commend to us. The Guidelines have been issued to effectuate the object and intent of Section 47-A of the Act and the Rules of 2000 read with Rules of 1975, as applicable to the State of Madhya Pradesh. The stipulations in the Guidelines, as aforesaid, are in conformity with the factors mentioned in Rule 5 of the Rules of 1975, relevant for determination of market value of the property, on the basis of which stamp duty must be paid on the instrument presented for registration. In any case, the Guidelines issued by the Valuation Committee do not bind the Registering Officer, who are even otherwise duty bound to determine the market value of the concerned property by applying the factors referred to in Rule 5 of the Rules of 1975. As a result, we reject this argument, in view of the legislative scheme.

56. The decisions of the Supreme Court in the cases of **Siddharth Sarawgi** (supra), **A.K. Roy** (supra), **Marathwada University** (supra) and **Kunj Behari Lal Butail and others** (supra), pressed into service by the petitioners will be of no avail. For, we have held that the Guidelines issued by the Valuation Committee are in furtherance of the Rules of 1975 read with Rules of 2000 and not a new dispensation created

thereunder, so as to invoke the principle of “*Delegatus Non Potest Delegare*”. Moreover, the delegation is to evolve norms for determination of minimum value, as has been provided in Section 47-A of the Act. It is, therefore, not a case of excessive delegation or a matter conferring parallel powers in the Valuation Board to evolve norms related to determination of market value, as is contended. Further, the minimum value prescribed by the Valuation Board merely serves as a guideline and non-binding on the Registering Authorities. The Registering Authorities are free to determine the market value of the property as per the principles set out in the Act read with Rules of 1975, rather obliged to do so.

57. For the view taken by us, it is unnecessary to dilate on all other decisions pressed into service by the counsel appearing for the respective parties.

58. Taking overall view of the matter, therefore, we are of the considered opinion that the petition must fail. Hence, the same is **dismissed** with no orders as to costs.

(A.M. Khanwilkar)
Chief Justice

(J.K. Maheshwari)
Judge