



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

BEFORE

HON'BLE SHRI JUSTICE AMIT SETH

WRIT PETITION No. 1111 of 2015

ANAND SHIVHARE AND ANOTHER

Versus

***COLLECTOR OF STAMP AND DISTRICT REGISTRAR, DISTRICT
SHIVPURI AND OTHERS***

&

WRIT PETITION No. 1116 of 2015

ANAND SHIVHARE AND ANOTHER

Versus

***COLLECTOR OF STAMP AND DISTRICT REGISTRAR DISTRICT
SHIVPURI AND OTHERS***

Appearance:

Shri Siddharth Sijoria and Shri Madhur Bhargava - Advocates for
petitioners **in Writ Petition No.1111/2015.**

Shri Ravindra Dixit – Government Advocate for respondents No.1, 2
and 5/State.

None for respondents No.3 and 4 though served.

Appearance:

Shri Shri Siddharth Sijoria and Shri Madhur Bhargava - Advocates for



petitioners in Writ Petition No.1116/2015.

Shri Ravindra Dixit – Government Advocate for respondents No.1, 2 and 5/State.

None for respondents No.3 and 4 though served.

Reserved on : 15.09.2025

Pronounced on : 07.10.2025

ORDER

1. With the consent of the parties, the matter is finally heard.
2. The instant writ petitions under Article 226/227 of the Constitution of India has been filed by the petitioners claiming following reliefs: **in W.P.No.1111/2015**

“1. That, it is, therefore, most humbly prayed that the petition filed by the petitioners may kindly be allowed and order passed by Board of Revenue on 21.04.2014 may kindly be quashed and the order dated 28.12.2011 passed by Additional Commissioner Gwalior and also orders dated 31.08.2009 & 27.10.2008 passed by respondent



No.1 & 2 may kindly be quashed. Any other relief, which this Hon'ble court may kindly, deems fit and considers necessary in the facts and circumstances of the case may kindly also be granted.”

and in **W.P.No.1116/2015:-**

“1. That, it is, therefore, most humbly prayed that the petition filed by the petitioners may kindly be allowed and order passed by Board of Revenue on 21.04.2014 may kindly be quashed and the order dated 28.12.2011 passed by Additional Commissioner Gwalior and also orders dated 31.08.2009 & 27.10.2008 passed by respondent No.1 & 2 may kindly be quashed. Any other relief, which this Hon'ble court may kindly, deems fit and considers necessary in the facts and circumstances of the case may kindly also be granted.”

3. Since the common orders are under challenge in both the writ petitions and common arguments have been advanced by the learned counsel for the parties, both writ petitions are being disposed of by this common order.

Facts of Writ Petition No.1111/2015:-

4. The petitioners purchased lands from respondents No.3 and 4,



bearing Khasra No.1112 Min 01, admeasuring 1.045 hectares, situated at Village Chhawani, Patwari Halka No.30, Pargana Shivpuri, Ward No.10, HaathiKhana, Pohari Road, Shivpuri, District Shivpuri, through a sale deed dated 27.10.2008, for a total sale consideration of Rs.20,28,170/-. The sale deed mentions the lands as agricultural lands.

Facts of Writ Petition No.1116/2015:-

5. The petitioners purchased lands from the respondents No.3 and 4, bearing Khasra No.1120 Min 27, admeasuring 0.418 hectares, situated at Village Chhawani, Patwari Halka No.30, Pargana Shivpuri, Ward No.10, HaathiKhana, Pohari Road, Shivpuri, District Shivpuri, through a sale deed dated 27.10.2008, for a total sale consideration of Rs.04,48,000/-. The sale deed mentions the lands as agricultural lands.

6. Finding undervaluation of the market value of the lands purchased by the petitioners in the above referred sale deeds, respondent No.2, vide order dated 27.10.2008, under Rule 4 (1) of the Madhya Pradesh Prevention of Undervaluation of Instruments Rules, 1975 (herein-above referred to as “the Rules of 1975), referred the matter to respondent No.1/Collector, Stamps, stating that in the sale deeds in question, the



lands have been shown to be agricultural lands, whereas, as per the prevalent guidelines for the year 2008-2009, the market value of the lands in question was Rs.5,000/- per square meter in respect of Khasra No.1112, whereas it was Rs.2000/- per square meter in respect of Khasra No.1120. Thus, there has been undervaluation of lands and evasion of stamp duty on the part of the petitioners by stating the land to be agricultural lands in the sale deeds in question. Accordingly, respondent No.1 was requested to take actions in terms of Section 47-A of the Indian Stamp Act, 1899.

7. On the receipt of reference from respondent No.2, the Collector, Stamps-respondent No.1 issued notices to the petitioners, held an inquiry in terms of Rule 5 of the Rules of 1975 and called for a report which revealed that the lands in question are situated within the boundary wall wherein, the residence of Superintendent of Police, Shivpuri and other residential accommodations of Police Officer situated. The lands in question cannot be stated to be agricultural lands. Accordingly, the market value of the portions of the lands abutting the road was assessed as commercial land, whereas the market value of the



lands situated at the backside was assessed as residential land. Consequently, the market value of the land in question in W.P.No. 1111/2015 was determined to be Rs.2, 18,00,000/-, thereby ascertaining a deficit stamp duty of Rs.19,52,350/- against the petitioners. In respect of the land forming the subject matter of W.P.No.1116/2015, the market value was assessed at Rs.67,11,000/-, and the deficit stamp duty was ascertained at Rs.6,18,311/-.

8. Against the common order dated 31.08.2009, the first appeal preferred by the petitioners was rejected by the Additional Commissioner, Gwalior vide order dated 28.12.2011. Subsequently, the second appeal preferred by the petitioners against these orders was also rejected by the Board of Revenue, Gwalior vide order dated 21.04.2014. It is these orders which are under challenge in these writ petitions.

9. Learned counsel for the petitioners submits that when the conveyance documents itself recorded the lands to be agricultural lands, then, the Collector ought not to have ascertained the market value of the lands in question by considering them to have the potential for commercial or residential use. He further submits that the actual use of



the lands on the date of execution of the documents must form the basis for the ascertainment of the market value of the lands. On the date of execution of the sale deed, the lands were undiverted and were being used for the agricultural purposes. Just because in future, the lands were having the potential of being used for commercial or residential purposes, the same could not form the basis for ascertaining the market value of the lands.

10. Learned counsel for the petitioners submits that the procedure as contemplated under Rules 4 and 5 of the Rules of 1975, for the purpose of ascertaining the market value of the lands in question has not been followed by the respondents No.2 and 1. The legal ground raised by the petitioners have not been considered either by the respondent No.1 in passing the order dated 31.08.2009 or by the first and second appellate authorities while rejecting the appeals preferred by the petitioners. Apart from the oral arguments, learned counsel for the petitioners has also filed their written submissions wherein; while reiterating their oral arguments, they have relied upon the judgment of the Hon'ble Supreme Court in the cases of *State of U.P. Vs. Ambrish Tandon*, reported in



2012 (5) SCC 506 and *Institute of the Franciscan Clarist Sisters Vs. State of U.P.*, reported in *2020 SCC Online All 1928 (Allahabad High Court)* and in the case of *Kashi Nath Upadhyay Vs. Commissioner*, reported in *2015 SCC Online 5675*, to contend that the ascertainment of market value for the purposes of levy of stamp duty has to be made on the basis of actual use of lands on the date of execution of the documents and not on the basis of its potential use in future. Thus, prayer for quashment of orders impugned is made.

11. On the other hand, learned counsel for the State opposes the writ petitions and submits that in the fact-finding inquiry, it has come on record that the lands in question which have been sold through the sale deeds in question to the petitioners are situated within the boundary walls wherein, the residence of the Superintendent of Police, Shivpuri already exists, on the spot, there does not exist any agricultural land. On the adjoining land, there is residential house of Journalist Shri Chauhan, on the other side, residential house of the Station House Officer and Hathikhana Road and other houses are constructed. The adjoining lands have facilities of light and piped water supply/tap. The Office of Tehsil



is situated at about 4 *furlongs* away. The spot inspection conducted by the Collector, in the presence of the petitioners and petitioners' counsel, revealed the said facts. Those findings of fact are not open for re-appreciate in the instant writ proceedings. The Collector has adequately ascertained the market value of the land in question which is in terms of the Principles For Determinations of the market value of the land as provided under the Rules of 1975. The scope of interference in writ jurisdiction under Article 227 of the Constitution of India is extremely limited. Nothing on record has been placed by the petitioners to show that the land was being used for the agricultural purpose or any crops were standing on the land in question on the date of execution of sale deeds.

12. Learned counsel for the State, by referring the original records of the proceedings conducted by the Collector, Stamps, produced during the course of hearing of the matter, referred photographs placed therein to buttress his submission that the lands in question cannot, by any stretch of imagination, be held to be agricultural lands. He submits that there was a clear case of undervaluation of the property and thereby



evasion of the stamp duty on the part of the petitioners. By referring to the original records, he submits that since the year 2003-2004, the other persons have also purchased the portions of the lands from the Survey No.1120 and Survey No.1112 and all such portions have been purchased in the form of plots and their valuation have been done on per square metre rate. The transactions of the petitioners is much thereafter i.e., in the year 2008 and therefore, just by mentioning the lands to be agricultural lands in the conveyance documents, the nature/use of land does not become agricultural.

13. Learned counsel for the State further submits that the ascertainment of market value by the Collector, Stamps in the impugned order in the instant writ petition is on the basis of actual use of the land on the date of execution of the documents and not on the basis of its potential use. The case laws relied upon by the petitioners may not be applicable in the given facts and circumstances of the case. Accordingly, he prays for dismissal of the writ petitions.

14. No other point has been pressed by the learned counsel for the parties.



15. Heard the learned counsel for the parties and also perused the written submissions submitted on behalf of the petitioners.

16. The record indicates that the petitioners in both the sale deeds have purchased the lands in question stating it to be agricultural lands and accordingly, the market value of the lands were ascertained and the stamp duty was paid.

17. Section 47-A of the Indian Stamps Act, 1899 provides that the Registering Officer while registering any instrument finds that the market value of the property which is the subject matter of such instrument have been set forth less than the minimum value determined in accordance with any rules under this Act, he shall before the registering such instrument refer the same to the Collector for the determination of market value of such property and the proper duty payable therein. Sub-section (1) of 47-A of the Rules of 1975 further provides that if 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 or proper duty payable



thereon.

18. In the instant case, the respondent No.2 had reason to believe that the lands in question were undervalued and the market value thereon has not been truly set forth in the sale deeds, therefore in exercise of powers in terms of Rule 4 (1) of the Rules of 1975, vide order dated 27.10.2008 referred the matter to the Collector, Stamps (respondent No.1) categorically recording the reasons that in terms of prevalent guidelines for the year 2008-2009, the market value of the lands ought to have been Rs.5,000/- per square metre but for 1.045 hectares land, the sale consideration mentioned in the sale deed was Rs.20,28,170/- (in W.P.No.1111/ 2015).

19. In W.P.No.1116/2015 the lands being situated at approximately 500 meter from Haathikhana, Pohari Road, in terms of prevalent guidelines for the year 2008-2009, market value of land is Rs.2000 per square metre whereas, the land of area 0.418 hectare, the sale consideration mentioned in the sale deed is of Rs.4,48,000/-. Accordingly, the Collector, Stamps was requested to determine the appropriate duty by determination of the market value of the properties



involved therein.

20. The Collector, Stamps on receipt of the reference, issued notices to the petitioners herein and called upon to submit their stand. The petitioners appeared before the Collector and submitted their replies, wherein they stated that the lands in question are agricultural lands only. There is neither any plotting on lands nor there is any commercial area in the near vicinity of the lands. The land is meant for the use of agricultural purpose only. The respondent No.2 had erred in treating the lands otherwise. Khasra entries of the land filed by the petitioners mentions that the lands in question contained fruits bearing trees.

21. The Collector called for a report from the Tehsildar to ascertain the location of the lands forming the subject matter of the sale deeds, the Tehsildar, Shivpuri has submitted his report dated 28.02.2009 which revealed that the land in question is situated adjacent to the residence of the Superintendent of Police, Shivpuri and is in the premises surrounded by the boundary wall. The respondent No.2 placed documents before the Collector, Stamps, Shivpuri to demonstrate that the number of portions of the lands forming part of same Khasra Nos. 1112 and 1120 have been



sold as plots since the year 2003 and all the lands are situated on the same place.

22. In order to ascertain facts, the Collector, Stamps, in the presence of the petitioners and their counsels, with the assistance of Clerk from the Office of Sub-Registrar and Patwari of Gram Chhawani conducted spot inspection of lands bearing Khasra No.1112 and 1120 which revealed that the land bearing Survey No.1120 is situated on the inner side from Pohari Road to Haathikhana, adjoining land there exists the residence of Journalist Shri Chauhan, T.I. Shikarwar and other houses near the land, there exists the facilities of electricity and water supply/tap. Office of Tehsil is situated at the distance of 4 furlongs. Similarly, the land bearing Survey No.1112 it was found within the premises wherein the residence of the Superintendent of Police, Shivpuri, is located. Accordingly, the Collector, Stamps concluded the market value of the land bearing Khasra No. 1112 is as under :-

“गणना :- प्रक० ३ बी -105 वर्ष 08-09 उक्त प्रकरण में 10485 वर्गमीटर ऐरिया है 1463 वर्गमीटर X 5000 रोड़ पर = 7316000 रुमूल्य होता है। 9021 वर्गमीटर X 2000 अंदर = 18042000 जिसमें 20 प्रतिशत छूट देने पर 14434000 रुपये बाजार मूल्य होता है यानि कुल



बाजार मूल्य 21750000 रु एवं वृक्षों की कीमत अत 41000 रु इस प्रकार कुल बाजार मूल्य 21791000 अत है जिसे पूर्णांक में 2.1800000 निर्धारित करता हूँ।”

and for land bearing Khasra No.1120 is as under:-

“गणना:- प्रक्र 6 बी-105 वर्ष 08-09 उप पंजीयक द्वारा उक्त भूमि जो कि हाथीखना पोहरी न्यायालय रोड से दूर (500 फीट) स्थित है। तथा इस क्षेत्र की गार्ड लाईन वर्ष 2008-09 के अनुसार 2000/प्रति वर्ग मीटर है। दस्तवेज में विक्रीत रक्बा 0.418 है यानी $4194 \times 2000 = 8388000$ रु होता है। मूल्य 8388000 में 20 प्रतिशत की कमी करना उचित समझता हूँ। उक्त भूमि पूर्ण विक्रिस्त है। तदनुसार बाजार मूल्य 6710500 होता है जिसे पूर्णांक में 6711000 निर्धारित करता हूँ।”

and accordingly, determined the stamp duty as under:-

Sl.No.	Case No. and Year	The value stated in the instrument by the party	Value ascertained by the Collector of Stamps	Deficit Stamp Duty payable
1	03 B-105 year 08-09	2028170	2,18,00000	19,52,350=00
2	06 B-105 Year 08-09	448000	67,11000	6,18,311=00

23. The Rule 5 of the Madhya Pradesh Prevention of Under-Valuation of Rules 1975 reads as under:-

"5. Principles for determination of market value.- The Collector shall as far as possible have also regard to



the following points in arriving at the market value.

(a) In 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 factors 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.”

24. The inquiry conducted by the Collector, Stamps, to ascertain the marked value of the lands as discussed herein-above, when tested on the principles for ascertainment of market value as laid down in Rule 5 of the Rules of 1975 (supra) reveals that the valuation of the market value of the lands in question has been done by the Collector, Stamps on the basis of actual use of the lands on the date of execution of the documents and not on the basis of its potential use in future as has been contended by the learned counsel for the petitioners. The aforesaid



conclusion of this Court finds force from the perusal of the original records of the proceedings conducted by the respondent No.1 wherein the chart in the form of Appendix - B has been placed on record to show that number of sale transactions in respect of the land from the same Khasra no.1112 and 1120 and adjoining Khasra were undertaken from the year 2003 onwards wherein, the lands have been sold in the form of plots by determining their market value on the basis of square meter and not on the basis of hectares even the seller of those plots is respondent No.3.

25. Moreover, there is no material on record to suggest that the lands in question were, in fact, being used for agricultural purposes on the date of execution of sale deeds, on the contrary, the photographs filed in the original record do not reflect the land being used to grow crops/ agricultural use.

26. The case laws thus relied upon by the petitioners in the cases of *State of U.P. Vs. Ambrish Tandon (supra)* and *Kashi Nath Upadhyay (supra)* are not applicable in the given facts and circumstances of the case.



27. This Court, in the case of *Hajjin Salma Begum wd/o Shaukat Hussain Vs. State of M.P. and others*, reported in 2006 (2) MPLJ 61, has considered the scope of interference under writ jurisdiction in matters pertaining to the ascertainment of market value of the property by the Collector (Stamps) on the basis of spot inspection and fact finding inquiry report. In paragraphs 9 and 10 thereof, it has been held as under:-

"9. Now coming to the merit of the case on going through the impugned order (Annex. P-22) it is revealed that the Collector has considered each and every minor detail of the property. It has been specifically mentioned in the order that the sold property is situated on the main road of Jaisingh Nagar and it is situated on the Rewa-Shahdol Highway. The sold property is surrounded by several houses. The Collector on para 4 of its order has mentioned that the sold property was being used for commercial purpose and there is market where the sold property is situated. Therefore, the authority has assessed the market value of the land to be Rs. 13/- per sq. ft. It has not been disputed that the sold property is not situated on Rewa-Shahdol Highway. The Collector has also taken into consideration that the structure of the godown would fetch price of Rs. 2/- per



sq. ft. and therefore, assessed the value of the constructed area of the godown to be Rs. 15/- per sq. ft. which includes cost of the land as well as constructed area.

10. The findings arrived at by the Collector are pure findings of fact and are not required to be interfered with while exercising writ jurisdiction."

28. When the orders impugned in the instant writ petitions are tested on the anvil of the aforesaid proposition of law as laid down by this Court, the order of the Collector being based upon findings of fact, no illegality or perversity is found in the order dated 27.10.2008 passed by the respondent No.2, the order dated 31.08.2009 passed by the Collector, Stamps, the order 28.12.2011 passed by the Additional Commissioner, Gwalior Division, Gwalior and the order dated 21.04.2014 passed by the Board of Revenue, Gwalior.

29. Accordingly, the present petitions are **dismissed**.

30. Pending application (s), if any, shall stand closed.

(AMIT SETH)
JUDGE