Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10725 OF 2015

Transcon Sheth Creators Private Limited
& Anr. … Petitioners
V/s.
State of Maharashtra & Anr. … Respondents

WITH
CIVIL APPLICATION NO.3397 OF 2015
IN
WRIT PETITION NO.10725 OF 2015

Ruhi Mary Thomas & Ors. … Applicants
In the matter between:
Transcon Sheth Creators Private Limited
& Anr. … Petitioners
V/s.
State of Maharashtra & Anr. … Respondents

Mr. Girish S Godble, Sr. Advocate a/w Mr. Aditya Shiralkar, Ms. Nuput Desai, and Mr. Ishaan Chaudhary i/b I. C. Legal, for the Petitioners.

Mr. S. H. Kankal, AGP, for the State – Respondent Nos.1 and 2.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 24, 2026

PRONOUNCED ON : AUGUST 31, 2026

JUDGMENT:

1. By the present Petition, filed under Articles 226 and 227 of the Constitution of India, the Petitioners have challenged the order dated 15 September 2015 passed by the Chief Controlling Revenue Authority, Maharashtra State, Pune. According to the Petitioners, the said order suffers from clear errors and has been passed without proper jurisdiction.

2. The brief facts which have given rise to the present Petition are as follows. The dispute relates to a Deed of Conveyance dated 9 May 2007. The said Deed was adjudicated by the Collector of Stamps and was registered on 1 August 2007 as Serial No. 5550 of 2007. By the said Conveyance, the subject property was conveyed in favour of the Petitioners. The property consisted of 17 separate plots of land. Some part of the said land was occupied by slum dwellers. After adjudication, the market value of the subject property was determined at about Rs. 12 crores, and stamp duty of Rs. 60 lakhs was paid by the Petitioners. The Impugned Order records that, after payment of the required stamp duty, the Collector made his endorsement and issued the necessary certificate on the instrument on 27 July 2007., on 12 March 2008, a notice was issued seeking to invoke Section 53A of the Maharashtra Stamp Act, 1958. Subsequently, the Joint Director, Town Planning, Valuation Department, submitted various Valuation Reports. The report dated 17 January 2009 was only a provisional report. In that report, the market value of the property was tentatively shown at about Rs. 50.12 crores. However, the report made it clear that several deductions were still required to be considered. These included development rights granted to other developers in respect of different portions of the slum and non-slum land forming part of the subject property. The report referred to 47 litigations pending before different Courts and Tribunals, for which necessary information from the legal officers was still awaited. It referred to exemptions and benefits which may be available to the assessees in respect of the declared slum area.

3. The second report dated 12 September 2013 was only a provisional report. It tentatively assessed the market value of the property at about Rs. 52.61 crores. However, even this report contained an important qualification. It stated that a deduction was required in respect of 23,423 square metres of land forming part of Plot No. 10, since there was an injunction restraining development of that land. The third report dated 6 December 2014 was, in substance, a supplementary report to the earlier reports. It again assessed the market value of the subject property at about Rs. 52.61 crores. However, according to the Petitioners, the matters relating to various deductions and other relevant factors, which were specifically referred to in the earlier reports, were not considered while arriving at the said valuation. By the Impugned Order dated 15 September 2015, the Chief Controlling Revenue Authority accepted the revised valuation of about Rs. 52.61 crores on the basis of the report dated 6 December 2014. This was as against the original adjudicated market value of about Rs. 12 crores. On that basis, the authority demanded alleged deficit stamp duty of Rs. 2,03,07,750, together with penalty.

4. Mr. Godbole, learned Senior Advocate appearing for the Petitioners, submitted that the Impugned Order is barred by limitation under Section 53A of the Maharashtra Stamp Act, 1958. He submitted that Section 53A permits the revisional power to be exercised within six years from the date of the Collector's certificate. He relied upon the decision of this Court in *Sony Mony Electronics Ltd. v. State of Maharashtra, 2025 SCC OnLine Bom 2848*, in which this Court has held that the period of six years applies not only for starting the proceedings but for completing them and passing the final recovery order. According to Mr. Godbole, this Court rejected the contention that, once a notice is issued within time, the authority can continue the proceedings for an unlimited period. He submitted that the same principle has been followed by this Court in *Kolte Patil Developers Ltd. v. State of Maharashtra, 2026 SCC OnLine Bom 677*. He pointed out that, even in that case, some steps were taken within the period of six years. However, the final recovery order was passed after expiry of six years. This Court held that such an order was without jurisdiction. Mr. Godbole submitted that the position is made clear by the decision of this Court in *Romell Real Estate Pvt. Ltd. v. State of Maharashtra, 2026 SCC OnLine Bom 1462*. In the said decision, this Court approved the principles laid down in *Sony Mony* and *Kolte Patil*. It was held that the period of six years covers the entire process, from the commencement of the proceedings until the reviewed assessment is completed. According to him, the principles laid down in the said decision apply to the facts of the present case.

5. Mr. Godbole submitted that, in the present case, the certificate issued by the Collector is dated 27 July 2007., according to him, the period of six years expired on 27 July 2013. However, the Impugned Order was passed only on 15 September 2015. He submitted that the Impugned Order was thus passed after expiry of the prescribed period of limitation. According to him, the authority had no jurisdiction to pass such order and the Impugned Order is liable to be quashed and set aside on this ground alone. He submitted that even if the alternative reasoning in *Sony Mony* is considered, the proceedings under Section 53A cannot be kept pending indefinitely. This Court had considered two years from the date of commencement of the proceedings as the maximum reasonable period for completing them. In the present case, though the notice was issued on 12 March 2008, the final order was passed more than seven years. According to Mr. Godbole, the issuance of notice within time cannot save the proceedings.

6. Mr. Godbole submitted that stamp duty is required to be determined on the basis of the market value of the property as it existed on the date when the instrument was executed. He relied upon *State of U.P. v. Ambrish Tandon, (2012) 5 SCC 566*, in which the Supreme Court held that a subsequent use cannot decide the stamp value and that the nature and use of the property must be considered with reference to the date of purchase. He relied upon *State of Rajasthan v. Khandaka Jain Jewellers, (2007) 14 SCC 339,* in which the Supreme Court held that the relevant value is the value prevailing on the date of sale or execution and not the value at an earlier or later point of time. He submitted that the Department has not applied the above test in the present case. According to him, while valuing Plot No. 10, the Valuation Reports have taken into consideration Slum FSI, Slum TDR and other redevelopment benefits which had not come into existence as on 9

May 2007. The specific case of the Petitioners is that, on the date of the Conveyance, no SRA scheme had even been submitted and no such scheme was in existence.

7. Mr. Godbole submitted that there was no SRA scheme in existence in respect of the property at the relevant time. According to him, the Valuation Reports have,, valued the property on the basis of a future redevelopment project instead of valuing the land which was conveyed on 9 May 2007. He submitted that the land, as it existed on that date, was occupied by slum dwellers and was subject to various encumbrances and difficulties. He submitted that the Valuation Reports take into account the possible future benefits of FSI and TDR but do not consider the costs and burdens necessary for obtaining those benefits. According to him, the valuation exercise is one-sided. The Reports consider the possible value arising from future FSI and TDR but do not deduct the expenses and difficulties connected with the same. These include the presence of existing occupants, their rehabilitation, transit accommodation, shifting expenses, corpus payments, development expenditure, pending litigation, reservations, delay and deferment, and the various steps which were required to be completed before TDR could be generated.

8. Mr. Godbole submitted that, on the date of execution of the instrument, as many as 47 litigations were pending in relation to the subject property. According to him, this was an important factor which would reduce the market value of the property and proper deductions were required to be made on that account. He submitted that the Impugned Order does not consider this material factor at all. Instead, the Valuation Reports proceed as if the property was clear, freely saleable andly available for development. According to him, that was not the condition of the property on 9 May 2007. The pending proceedings, adverse claims, injunctions, occupation and other difficulties were existing features of the property and would affect the price which a prudent and willing purchaser would have agreed to pay.

9. Mr. Godbole relied upon the judgment of the Constitution Bench of the Supreme Court in *C.B. Gautam v. Union of India, (1993) 1 SCC 78*, particularly paragraph 30 thereof. He submitted that the Supreme Court held that a dispute relating to title may result in the property being sold for less than its fair market value. He relied upon the judgment of the Division Bench of this Court in *Vimal Agarwal v. Appropriate Authority, 1994 SCC OnLine Bom 314*, in which it was held that the valuation has to be adjusted by considering such “minus factors”.

10. Mr. Godbole submitted that there is an independent error in the manner in which the 2007 Valuation Guidelines have been applied. According to him, the correct formula was the SDRR base value plus 40 per cent, namely 1.4 times the base value., deductions were required to be made towards development expenditure and deferment. However, according to him, the Valuation Reports have effectively applied 1.6 times the base value. He submitted that the applicable deduction of 15 per cent towards area has not been given.

11. Mr. Godbole submitted that the error going to the jurisdiction of the matter is clear from the Impugned Order. The authority has recorded the objections raised by the Petitioners, including the objection that the 2014 report was based on an incorrect method and that the pending matters relating to the property were not considered. However, according to him, the authority merely states that the report dated 6 December 2014 is "proper" and, "hence", accepts the same., the authority adopts the revised valuation and raises the demand. He submitted that the Impugned Order does not give any proper reasons for deciding the main objections raised by the Petitioners. According to him, the order does not explain why future SRA or TDR benefits could be treated as having accrued on 9 May 2007. It does not explain why the occupation of the property, pending litigation, reservations, development expenses and deferment were treated as unimportant. He submitted that the order does not give any reasons for rejecting the independent Valuation Report produced by the Petitioners. According to him, the specific and material objections raised by the Petitioners have not been dealt with.

12. Mr. Godbole submitted that the authorities under the Act have failed to consider the pending litigation concerning the plots in question, which, according to him, would considerably reduce their market value. He submitted that the market value has been determined on the basis of an assumed future event which may or may not happen. According to him, a possible future income cannot be treated as a factor for deciding the market value of the property described in the instrument for the purpose of calculating stamp duty. He submitted that, unlike proceedings under the Income Tax Act, the market value of the property cannot be determined on the basis of a possible future income.

13. Mr. Godbole submitted that the judgment of this Court in *Uma Niwas CHSL* has been challenged before the Supreme Court. However, according to him, only the operation of the order has been stayed. He submitted that unless the entire judgment is stayed by a superior Court, the observations and principles laid down in the judgment continue to bind a subsequent Bench. In support of this submission, Mr. Godbole relied upon the judgment of the Supreme Court in *Shree Chamundi Mopeds Limited v. Church of South India Trust Association CSI CINOD Secretariat, Madras, (1992) 3 SCC 1*.

14. On the other hand, Mr. Kankal, learned AGP, submitted that Respondent No. 2 received a question raised in the Legislative Assembly regarding possible undervaluation of the document and the resulting short payment of stamp duty. According to him, Respondent No. 2,, considered it necessary to verify whether the allegation was correct and accordingly exercised the powers available under Section 53A of the Maharashtra Stamp Act, 1958. He submitted that Section 53A gives the Chief Controlling Revenue Authority the power, within six years from the date of the certificate issued by the Collector under Sections 32, 39 or 41, to call upon the concerned party to produce the instrument. After giving the concerned party a reasonable opportunity of being heard, the authority can examine whether proper stamp duty was chargeable and whether any duty had been paid short. If a deficit is found, the authority can direct its recovery.

15. According to Mr. Kankal, after receiving the Legislative Assembly question raised by a duly elected representative, Respondent No. 2 issued a notice dated 12 March 2008 and called upon the Petitioners to produce the document. He submitted that the Chief Controlling Revenue Authority gave several opportunities of personal hearing to the concerned party from time to time. After considering the submissions made by the Petitioners, the authority passed the order dated 15 September 2015 directing the Petitioners to pay deficit stamp duty of Rs. 2,03,07,750.

16. Mr. Kankal submitted that the market value was determined in accordance with Rules 3 and 6 of the Maharashtra Stamp (Determination of True Market Value) Rules, 1995, read with Section 3 of the Maharashtra Stamp Act. He submitted that the valuation mentioned in the report of the Joint Director, Town Planning, was made by an expert authority. Relying upon Section 28 of the Maharashtra Stamp Act, he submitted that all relevant facts are required to be stated in the instrument for the purpose of determining the market value of the property described therein. He, therefore, submitted that the Petition deserves to be dismissed.

REASONS AND FINDINGS:

17. I have considered the Petition, the Impugned Order dated 15 September 2015, the Deed of Conveyance, the submissions of Mr. Godbole, learned Senior Advocate for the Petitioners, and those of Mr. Kankal, learned AGP for the Respondents. So far as the question of limitation under Section 53A is concerned, I do not find it necessary to decide that question in this Petition. In case of *M/S. Sahyog Homes Ltd vs The State Of Maharashtra,* Writ Petition No. 6437 of 2015, this Court has referred the questions arising from *Sony Mony Electronics Ltd. v. State of Maharashtra,* 2025 SCC OnLine Bom 2848*, Kolte Patil Developers Ltd. v. State of Maharashtra,* 2026 SCC OnLine Bom 677 and *Romell Real Estate Pvt. Ltd. v. State of Maharashtra,* 2026 SCC OnLine Bom 1462 to a larger Bench. The question of limitation is kept open. The present Petition can be considered on the question of market value on merits.

18. The Deed of Conveyance was placed before the Collector of Stamps for adjudication. The Collector determined the market value at Rs.12 crores and stamp duty of Rs.60 lakhs was paid. The order of the Chief Controlling Revenue Authority records that Rs.60 lakhs was deposited and that the endorsement or certificate was made on the document on 27 July 2007. The question which now arises is whether the subsequent valuation of Rs.52,61,54,916/-, rounded off to Rs.52,61,55,000/-, can be accepted on the material available on record.

19. Before considering the valuation report, it is necessary to see what was purchased by the Petitioners. The property was not a vacant property, free from disputes and ready for development. The recitals in the Deed show that several difficulties were attached to the property. There were earlier Development Agreements with Conwood Developers Private Limited and rights had been created under those agreements. The Deed refers to proceedings filed by members of the Vendor Society. The Deed specifically states: “There are above 45 suits filed by and against the Vendor”. It refers to an injunction restraining creation of third party rights in respect of a portion of the property. The Deed records that there were “several claims made by several persons” and a claim made by one of the original owners of the land. It states, “There are several encroachments on the larger properties.” The Deed refers to a suit filed by the Vendor for specific performance of the earlier Conwood Agreements and states that the said suit was pending., these disputes and difficulties were not something which came up after the transaction. They were existing when the transaction was entered into. The Deed shows that the Purchaser agreed to purchase the property despite these difficulties. The Purchaser had inspected the title documents and the larger properties. The Purchaser agreed to take the property “on as-is-where-is basis”. The Deed records that the Purchaser agreed to purchase the properties “with the full knowledge of existing litigations and encumbrances”. It was agreed that the pending litigations would be dealt with, settled, prosecuted or defended by the Purchaser at its own risk, cost and consequences.

20. The fact that the Purchaser accepted the litigation and encumbrances does not mean that those matters had no effect on the value of the property. In fact, the Purchaser was taking the property together with those burdens. A purchaser would consider the risk of litigation, encroachments and difficulties in development while deciding the price which he is willing to pay. These circumstances have a bearing on the price which a willing purchaser would agree to pay. The Deed contains material showing how the price of Rs.12 crores came to be agreed. It refers to the earlier negotiations, the Escrow Agreement and the Resolution passed in the Special General Meeting of the Society. In particular, the Deed records that by Resolution dated 15 July 2006 passed at the Special General Meeting, the offer of the Purchaser of Rs.12,00,00,000/- for the larger properties was accepted on "as-is-where-is" basis. This is material existing at the time of the transaction and shows the circumstances in which the price was accepted. In these circumstances, the submission of Mr. Godbole that the property could not have been treated as a clear property having and unrestricted development potential has substance. The Deed supports this submission. At the same time, the mere existence of litigation and encumbrances does not mean that Rs.12 crores must be accepted as the true market value. The authority was entitled to examine the valuation. But while doing so, it was required to consider the property in the condition in which it existed on the relevant date. Both its advantages and disadvantages had to be considered.

21. This is where the decision in *Vimal Agarwal* becomes relevant. This Court stated:

> "When the fair market price is to be determined on the basis of comparable sale instances, every sale instance relied upon by the appropriate authority or by the aggrieved party has to be considered on its own merits."

22. The same judgment states that the "advantages or disadvantages" of the property have to be considered and that suitable adjustments have to be made for the "plus and minus factors". The Court observed that the determination of fair market value "cannot be a guess work" and "cannot be left to conjectures and surmises".

23. The valuation report relied upon by the authority does not show that the positive as well as negative features of the property were considered. The valuation appears to have been made by giving values to the different plots and arriving at the total figure of about Rs.52.61 crores. However, the report does not show how the value was reduced on account of the litigation, encumbrances, restrictions and other burdens which existed on 9 May 2007.

24. The Valuation Report dated 17 January 2009 was provisional. It referred to development rights given to other developers concerning different portions of the land. It referred to 47 litigations and stated that inputs from the legal officers were awaited. It referred to deductions and benefits concerning the slum portion., the report showed that several matters were still required to be considered before the final valuation could be made. The second report dated 12 September 2013 was provisional. It referred to a deduction concerning 23,423 square metres of land in Plot No.10 because development was under injunction. The third report dated 6 December 2014 retained the valuation at about Rs.52.61 crores. The difficulty is that the material pointed out by the Petitioners concerning the earlier restrictions and deductions is not shown to have been considered before the same figure was accepted. The authority has not explained why the factors which had earlier been considered relevant for making deductions had later ceased to have any effect upon the market value.

25. The manner in which the valuation report was accepted is clear from the Impugned Order. In paragraph 4.3, the authority records:

> "This Authority believes that the said report is proper and hence accepts the same."

26. Thereafter, in paragraph 4.4, the authority accepts the valuation of Rs.52,61,54,916/- and proceeds to calculate the alleged deficit stamp duty. In my view, the statement "believes that the said report is proper and hence accepts the same" cannot by be treated as a proper reason for determining the market value. The question before the authority was whether the valuation stated in that report represented the true market value of the particular property conveyed on 9 May 2007. For deciding that question, the authority was required to consider the objections of the Petitioners, the condition of the property, the litigations, encroachments, injunction, development restrictions, existing rights and the other relevant circumstances appearing from the Deed.

27. Mr. Kankal submitted that the valuation was prepared by the Joint Director of Town Planning and Valuation, who is an expert, and that Rules 3 and 6 of the Maharashtra Stamp (Determination of True Market Value of Property) Rules, 1995 were followed. There is no difficulty in accepting that an expert valuation report can be relevant material. But merely because a report has been prepared by an expert, every conclusion in that report cannot be accepted without examination. The authority was still required to consider whether the report dealt with the condition of the property.

28. Rule 4 refers to classification of properties having regard to “the type of the land, types of construction, location and situational advantages or disadvantages of property”. Rule 6 requires consideration of “all the relevant factors and evidence placed before his” while determining the true market value., the Rules do not support a method where the possible advantages of the property are considered but the disadvantages are left out. Therefore, the submission of Mr. Kankal that the valuation was made under Rule 3 and Rule 6 cannot be accepted in its entirety. In the present case, a valuation exercise was undertaken. The difficulty is that the Impugned Order does not show how the material disadvantages affecting the property were considered while arriving at the final figure.

29. Mr. Kankal relied upon Section 28 and submitted that the necessary particulars have to be stated in the instrument. In the present case, the Deed contains material regarding litigation, encroachments, injunction, earlier development arrangements, claims and the “as-is-where-is” basis of the transaction. The authority had material before it from which the condition of the property could be understood. The submission of Mr. Godbole that valuation has to be made with reference to the condition of the property on the relevant date requires consideration. In *Ambrish Tandon*, the Supreme Court observed in paragraph 15:

> "Merely because the property is being used for purpose at the later point of time may not be a relevant criterion for assessing the value for the purpose of stamp duty. The nature of user is relatable to the date of purchase and it is relevant for the purpose of calculation of stamp duty."

30. The principle which follows is that a later development or later condition of the property cannot be brought into the earlier date for increasing the stamp value. What has to be considered is the condition and relevant circumstances of the property on the date of the transaction. The same principle is found in *Khandaka Jain Jewellers*. In paragraph 20, the Supreme Court stated:

> "What is relevant in fact is the valuation of the property at the time of the sale."

31. The Supreme Court stated:

> "Therefore, the market value of the instrument has to be seen at the time of the execution of the sale deed, and not at the time when agreement to sale was entered into."

32. Though that case arose under the Rajasthan statute, the principle regarding the relevant date for valuation is useful in the present case. The authority has to determine the value relevant to the transaction under consideration. A later value cannot be substituted for the value on the relevant date. The Deed does not show that on 9 May 2007 there was an completed redevelopment scheme which gave the Purchaser a available development benefit. On the contrary, the Deed records earlier development arrangements, pending litigation and restrictions. A possible future benefit could not be treated as if it was available to the Purchaser on the date of the transaction.

33. Mr. Godbole submitted that future FSI, TDR and SRA related benefits could not be treated as an existing asset as on 9 May 2007. There is substance in this submission. A future possibility cannot be treated as present market value. For obtaining such future development benefits, different steps and expenditure may be required. There may be litigation, rehabilitation obligations, and uncertainty. All these circumstances can affect the price which a purchaser would be ready to pay on the relevant date. The Deed shows these difficulties. It refers to pending litigation, encroachments and claims. It refers to an injunction in respect of a portion of the property. The Purchaser accepted the burden of the pending disputes. The Purchaser accepted the property on "as-is-where-is" basis.

34. The importance of such circumstances is held in *C.B. Gautam* . In paragraph 30, the Supreme Court observed:

> "There might be some dispute as to the title of the immovable property as a result of which it might have to be sold at a price lower than the fair market value"

35. The Supreme Court held that there may be "other genuine reasons" because of which a property may be sold for a price lower than the market value. *C.B. Gautam* does not hold that every property having a dispute must be given a fixed percentage of deduction. That is not the principle. The principle is that where genuine disadvantages affect the property, those disadvantages are relevant for deciding the price which a willing purchaser would agree to pay. The authority cannot determine the value as if such disadvantages did not exist.

36. The reasoning in *Vimal Agarwal* is to the effect that the authority has to consider the “plus factors” and “minus factors” and make suitable adjustments for arriving at the fair market value. A property having litigation, encumbrances and development restrictions cannot be treated in the same manner as a property having clear title and and unrestricted development potential. Therefore, I find that the valuation in the report dated 6 December 2014, insofar as it proceeds on the higher prospective value of the different plots without showing corresponding deductions for the burdens affecting the property, cannot be accepted as a reliable determination of the true market value.

37. The Deed records that offers for purchase had been received and that the Purchaser's offer was the best offer accepted by the Vendor. The transaction was supported by the Resolution of the Special General Meeting accepting the offer of Rs.12 crores on “as-is-where-is” basis. This does not make Rs.12 crores conclusive. However, it is contemporaneous material showing the price which was agreed after negotiations and with knowledge of the condition of the property. The authority has not dealt with this circumstance. If the Department wanted to reject the negotiated consideration of Rs.12 crores and replace it by a value of more than Rs.52 crores, the authority was required to explain why the transaction could not be relied upon. It was required to explain why the offer accepted by the Society was not a genuine offer and why the litigation, encumbrances and other burdens accepted by the Purchaser did not have an effect on the price. No such exercise is found in the Impugned Order. There is no finding that the transaction was not at arm's length. There is no finding that the Vendor and Purchaser had colluded to suppress the consideration. There is no finding that the consideration of Rs.12 crores was artificial. There is no finding based upon any comparable sale of a similar property having similar litigation, restrictions and other conditions which had fetched a higher price.

38. The fact that the authority obtained a Town Planning Report does not remove the requirement of proper valuation. As stated in *Vimal Agarwal*:

> "The determination of the fair market value must be based on evidence on record. It cannot be a guess work. The figure of fair market value cannot be left to conjectures and surmises."

39. In the present case, the record does not show the comparative exercise and proper adjustments which were necessary for determining the fair market value.

40. Mr. Godbole submitted that the 2007 Valuation Guidelines were wrongly applied and that the appropriate factor was 1.4 times the SDRR base value instead of 1.6 times, along with the claimed deduction of 15 per cent area. A formula can be applied only after the correct property and its circumstances are considered. If the factual basis is not correctly taken, applying a formula to that basis cannot result in a correct market value.

41. Mr. Kankal submitted that the annual statement of rates and the statutory guidelines provide the basis for determining market value. This can be accepted to the extent that such rates and guidelines are relevant material. But they cannot be treated as the answer in every case, particularly where the property has special circumstances. The Rules contemplate enquiry and consideration of other evidence where the true market value cannot be arrived at only from the statement of rates. In the present case, the litigation, encroachments, injunction and development difficulties required consideration. The authority has stated that the objections raised by the Petitioners were based on factors which were "not applicable to present case". But the Impugned Order does not explain why those factors were not applicable. This is important because those objections concerned the value of the property. Once the Petitioners placed before the authority material regarding litigation, development restrictions and other difficulties, the authority was required to give reasons for rejecting those objections.

42. A fair hearing requires that the material submissions made by a party be considered. The authority has to consider the submissions and documents placed before it and decide whether they have any effect upon the conclusion. In the present case, the Petitioners had placed valuation material and written submissions. But the Impugned Order does not show a consideration of that material against the Department's valuation report.

43. I have considered whether the existence of several litigations and encumbrances is sufficient to hold that Rs.12 crores was the true market value. The existence of these difficulties does not establish the figure of Rs.12 crores. These factors were required to be considered while determining the true market value. The Department has not shown that they were considered in the manner required by the valuation principles.

44. I have considered the submission that future redevelopment potential may have some value in the market. That submission cannot be rejected. A purchaser may be willing to pay something for future potential. But such potential cannot be treated as a present and certain benefit without considering the uncertainty, expenses, delay, legal difficulties and other conditions which may come in the way of obtaining that benefit. In the present case, the valuation report does not show that this exercise was undertaken. The Court has to determine the true market value of the property on the relevant date. The Court is not required to decide what the property could become after several years. Future development possibility could be considered only to the extent that a willing purchaser, knowing the existing difficulties, would have taken that possibility into account while agreeing to the price.

45. The Deed shows that the Purchaser was taking considerable risks. It records pending litigation, encroachments, claims and the obligation of the Purchaser to deal with those matters at its own risk. These matters would affect the decision of a purchaser. A purchaser would not pay for future benefits as if those benefits were certain.

46. The Impugned Order suffers from a basic difficulty. The method of valuation gives a picture of the property as though its development potential was readily available. The Deed shows that obstacles existed. The valuation gives importance to the possible future benefit but does not show corresponding consideration of the existing difficulties.

47. I find that the authority has not dealt with the several litigations referred to in the material. The Deed states that "There are above 45 suits filed by and against the Vendor". The valuation material referred to 47 litigations. There may be some difference in the number because the documents may relate to different dates or different categories of proceedings. That difference is not necessary for deciding the present matter. What is important is that a number of litigations existed and their effect upon the market value had to be considered. The same reasons apply to the injunction affecting the concerned portion. The Deed records the injunction concerning 28,000 square yards. The later valuation material held development restrictions concerning Plot No.10. Land which is subject to such restriction cannot be valued in the same manner as unrestricted land without considering the effect of that restriction upon its market value.

48. Mr. Kankal submitted that the authority had given several opportunities of hearing to the Petitioners. To that limited extent, the submission can be accepted. The Impugned Order records several dates on which the matter was taken up for hearing. The question before this Court is whether the order shows consideration of the objections and documents placed by the Petitioners. In my view, it does not.

49. The final conclusion of the authority is that the report is "proper" and it is accepted. This cannot be treated as sufficient when the earlier reports contained qualifications and provisional aspects and when the Petitioners had raised specific objections regarding the valuation. The authority was required to independently determine the market value. It could not accept the latest figure because it appeared in the latest report.

50. I find that the Department has not established from the material on record that Rs.52,61,54,916/- was the true market value of the property on the relevant date. The said figure is not supported by proper consideration of the condition of the property and the disadvantages affecting it. Consequently, the demand of Rs.2,03,07,750/- towards alleged deficit stamp duty cannot be sustained.

51. As regards the original valuation of Rs.12 crores, there is contemporaneous material supporting the same. The Collector had determined the market value at Rs.12 crores and stamp duty of Rs.60 lakhs was paid. The Deed records the offer of Rs.12 crores, its acceptance by the Society, the "as-is-where-is" basis of the transaction and the Purchaser's acceptance of the existing litigation and encumbrances. I am conscious that merely because the Collector had earlier adjudicated the document, such adjudication does not become beyond the statutory power of revision. The existence of an earlier valuation cannot prevent a later examination. However, where the revised authority seeks to replace the earlier adjudicated value of Rs.12 crores by a figure of more than Rs.52 crores, the material before the authority must show why the earlier valuation was wrong and why the new figure represents the true market value. Such an exercise is not found in the present case.

52. Considering the material as a whole, I find that the figure of Rs.12 crores is supported by the transaction between the parties, the contemporaneous offer accepted by the Society, the Special General Meeting Resolution, the "as-is-where-is" basis and the known litigation and encumbrances. The Department has not placed on record any comparable transaction concerning a property having similar burdens which would justify replacing the value of Rs.12 crores by Rs.52.61 crores. I hold that the market value of the subject property for the purpose of the Conveyance cannot be enhanced to Rs.52,61,54,916/- on the basis of the Valuation Report dated 6 December 2014. The valuation made by the Collector at Rs.12 crores has not been displaced by sufficient and reasoned material. The stamp duty remains payable on the value of Rs.12 crores as adjudicated.

53. For all these reasons, the Impugned Order dated 15 September 2015 cannot be sustained on merits. The finding that the market value of the property was Rs.52,61,54,916/- and the consequential demand of Rs.2,03,07,750/- towards deficit stamp duty are liable to be quashed and set aside. The original adjudication made by the Collector of Stamps, determining the market value at Rs.12 crores and the stamp duty at Rs.60 lakhs, stands restored.

54. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

i) The writ petition is allowed;

ii) The impugned order dated 15 september 2015 passed by respondent no. 2 is quashed and set aside;

iii) The petitioners shall be entitled to withdraw the amount deposited by them in this Court in furtherance of the order dated 27 october 2015, together with the interest accrued thereon, if any. The amount shall be permitted to be withdrawn by the petitioners upon due verification by the registry;

iv) The question regarding limitation under section 53a of the Maharashtra Stamp Act, 1958 is kept open and is not decided by this court;

v) The petition is disposed of in the above terms. There shall be no order as to costs.

vi) In view of disposal of the Writ Petition, all pending interlocutory application(s) stand disposed of as infructuous.

(AMIT BORKAR, J.)