

Sona Builders

v.

Union of India and Others

(Supreme Court Of India)

HON'BLE JUSTICE BRIJESH KUMAR HON'BLE JUSTICE S. P.
BHARUCHA HON'BLE JUSTICE Y. K. SABHARWAL

Civil Appeal No. 3685 Of 1999 | 24-07-2001

The appellant is the transferee of immovable property situated at Sawai Madho Singh Road, Bani Park, Jaipur. In respect of that transfer, the requisite Form No. 37-I was filed with the income-tax authorities on March 9, 1993, and a valuation report on April 9, 1993. On May 21, 1993, the appellant and the transferor of the said property were issued a notice by the office of the Appropriate Authority, Income-tax Department, New Delhi, to attend a hearing before him at Jaipur on May 31, 1993, at 9.30 a.m. The notice invited the attention of the addressees to a sale instance, namely, the auction of another property on Sawai Madho Road on October 3, 1991. Based upon that sale instance, the notice informed the addressees that the apparent consideration of the transaction in appeal was low. The notice was sent from Delhi to the appellant at Jaipur by speed post and the photocopy of the envelope shows that it was posted only on May 24, 1993. It is averred by the appellant that it was received by it on May 26, 1993. On May 29, 1993, a letter was written to the Appropriate Authority on behalf of the appellant which requested him to supply to the appellant a copy of the deed in respect of the sale instance and a site plan of that property. The letter asked for an adjournment and time to make preparation. On May 31, 1993, an order was made by the Appropriate Authority which held that the apparent consideration for the transaction between the appellant and the transferor was substantially low as compared to the value arrived at on the basis of the sale instance, duly adjusted, and, therefore, the compulsory purchase of the property in appeal was ordered

Writ petitions were filed by the appellant and the transferor to impugn the order of compulsory purchase. It was contended by them before the learned single judge that no reasonable opportunity had been given to them to meet the case made out in the notice with reference to the sale instance referred to therein. The learned single judge rejected the contention, as did the Division Bench in the

appeal filed therefrom. The order of the Division Bench is now under challenge. We are quite unable to agree with the view taken by the High Court. The notice was addressed on May 21, 1993, from Delhi to the appellant in Jaipur fixing the hearing on May 31, 1993. It was patent that it would take two or three days for that notice to be received in Jaipur even though despatched by speed post. In effect, therefore, the notice gave five days to the addressees to respond, and we are told that two of those days were Saturday and Sunday. Under section 269UD the Appropriate Authority had two months to act commencing from the end of the month in which the Form No. 37-I was filed. The form was filed on March 9 so that the Appropriate Authority had about two months and twenty days to take action. He did not take action until only one week from the last available date, and then he gave the appellant, in reality, only three days to respond. This was, plainly, most inadequate

Further, the notice alleged that the apparent consideration of the transaction between the appellant and the transferor was low based on the sale instance mentioned thereon. To be able adequately to respond to that allegation, it was necessary for the appellant to ascertain what the merits and demerits were of that property which had been auctioned, and to know what were the terms and conditions of the auction. No copy of any document relating to the sale instance was furnished by the Appropriate Authority to the appellant along with the notice, or at any time whatsoever

There is no doubt in our minds that on both counts there has been a gross breach of the principles of natural justice because adequate opportunity to meet the case made out in the notice was not given to the appellant

Having regard to the statutory limit within which the Appropriate Authority has to act and his failure to act in conformity with the principles of natural justice, we do not think we can remand the matter to the Appropriate Authority. We must set his order aside. The appeal is accordingly allowed. The judgment and order under appeal is set aside. The order of the Appropriate Authority dated May 31, 1993, is quashed

The respondents shall pay to the appellant the costs of the appeal.