

**SUPREME COURT OF INDIA**

Ansal Housing and Construcjtion Limited

Vs.

State of Uttar Pradesh & Ors.

C.A.No.2582-2584 of 2016

(Kurian Joseph and R.F.Nariman, JJ.)

09.03.2016

**JUDGMENT**

**Kurian Joseph, J.**

S.L.P.(C) Nos.1012-1014 of 2012

1. We have heard learned counsel for the parties.
2. Leave granted.
3. The short issue raised in these appeals pertains to the stamp duty payable by the developer and the allottees under Sections 33/47(A) of the Indian Stamp Act, 1899.
4. In a writ petition filed by the developer, in respect of the bipartite agreement between the State and the developer, the High Court by judgment dated 4th August, 2011 relegated the developer to the competent authority. However, in the writ petitions filed by the allottees of the developer, by another judgment dated 16th August, 2011, the High Court took the view that even in respect of the tripartite agreement between the State on the one hand and the developer and allottees on the other hand also, full stamp duty is payable on the basis that the arrangement is a lease. Before us, several contentions are taken, some of which we may refer below :-

“1. Whether the tripartite agreement qua the allottees is a lease, is a matter to be adjudicated by the competent authority and therefore, the High Court was not justified in going to that issue;

2. The allottees were in any case exempted from payment of the stamp duty. There are a few other contentions as well.”

5. In our view, bereft of the required materials before the High Court, the Court was not justified in adjudicating the issue at the first instance when there is a statutory scheme provided for adjudication of such issues by the competent authorities concerned.

6. In that view of the matter, without expressing any further opinion, we set aside the judgment dated 16.8.2011 in Civil Miscellaneous Writ Petition No. 73277 of 2010 and other connected matters. The parties are relegated to the competent authority under the Indian Stamp Act in the State of Uttar Pradesh for the adjudication of the dispute. We direct the Authority concerned to issue notice to the parties, hear them and pass final orders on merits on the dispute within a period of six months from today.

7. As far as Writ Petition 40656 of 2004 filed by the developer leading to the Judgment dated 4.8.2011 is concerned, we are informed that during the pendency of the special leave petition before this Court, the adjudicating authority has passed an order on 16.1.2015 and thereafter the matter was carried before the appellate authority and the appellate authority passed an order on 22.4.2015 and the issue is now before the High Court. It appears that the authorities have passed such orders on different dates and therefore, similar other matters are consequently before the High Court.

8. Therefore, we express no opinion on the legality or otherwise of the orders passed by the competent authorities, since it is for the parties to take up all available contentions before the High Court and it is for the High Court to pass appropriate orders.

9. Having regard to the fact that the issue has been pending since long, we request the High Court to dispose of the writ petitions expeditiously.

10. The civil appeals are, accordingly, disposed of.

11. No order as to costs.

## **ORDER**

1. Leave granted.

2. The civil appeals are disposed of in terms of the signed reportable judgment. Pending applications, if any, stand disposed of.