IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 25th DAY OF OCTOBER 2005

BEFORE

THE HON'BLE MR. JUSTICE K.L.MANJUNATH

W.P.NO.49569 OF 2004(GM-ST/RN)

BETWEEN

1 D HEMANTHRAJ
AGED ABOUT 50 YEARS
S/O LATE SIDDAPPA
R/O HARIHAR TOWN
DAVANAGERE DISTRICT

2 D UJJAPPA
AGED ABOUT 48 YEARS
S/O LATE SIDDAPPA
R/O HARIHAR TOWN
DAVANAGERE DISTRICT

3 D NAGARAJU
AGED ABOUT 46 YEARS
S/O LATE SIDDAPPA
R/O HARIHAR TOWN
DAVANAGERE DISTRICT

4 D BASAVARAJU
AGED ABOUT 44 YEARS
S/O LATE SIDDAPPA
R/O HARIHAR TOWN
DAVANAGERE DISTRICT

5 MANJUNATH
AGED ABOUT 42 YEARS
S/O LATE SIDDAPPA
R/O HARIHAR TOWN
DAVANAGERE DISTRICT

6 UJJANI SIDDESHWARA RICE INDUSTRIES
SHIMOGA ROAD, HARIHAR

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BY ITS PARTNER D HEMANTHARAJ
S/O LATE SIDDAPPA
50 YEARS

... PETITIONERS

(By Sri: R GOPAL, ADV.)

AND :

1 THE DISTRICT REGISTRAR (STAMPS)
DAVANAGERE DISTRICT
BINNI COMPANY ROAD
DAVANAGERE

2 THE DEPUTY INSPECTR GENERAL
OF REGISTRATION AND APPELLATE AUTHORIOTY
BANGALORE DIVISION
BANGALORE

3 THE SUB REGISTRAR
HARIHAR TALUK
HARIHAR

... RESPONDENTS

(By Sri: B.N.PRASAD, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DT. 14.8.2001 PASSED BY R-1 VIDE ANNEX-J AND ORDER DT. 26.7.2004 PASSED BY R-2 VIDE ANNEX-K.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioners have purchased an immovable property consisting of agricultural land, rice mill and a part of converted land

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under registered sale deed dt.22.5.2000 for a sum of Rs.17 lakhs. The Sub-Registrar, Harihar, has referred the matter to the 1st respondent for determination of the Stamp duty contending that the documents produced by the petitioner does not depict the market value for the purpose of calculation of the stamp duty and registration fee. The 1st respondent has passed an order as per Annexure-J dated 14.8.2001 determining the market value of the agricultural land at the rate of Rs.1,65,000/-, Rs.26,000/- towards the value of the trees and Rs.19,92,163/- in respect of the converted land. Similarly, he has also valued the other facilities available in the property and thereafter he has arrived at a conclusion that the property purchased by the petitioner was valued at Rs.28,24,853/-, after giving deductions to the stamp duty paid by the petitioner. The petitioners have been called upon to pay the deficit stamp duty and registration fees of Rs.1,51,875/-. Being

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aggrieved by the said order, the petitioners filed an appeal before the 2nd respondent. The 2nd respondent by his order dated 26.7.2004 has confirmed the order passed by the 1st respondent. Being aggrieved by these two orders, the present petition is filed.

2. Though several grounds have been urged by the petitioners in the Writ Petition, the learned counsel appearing for the petitioner has raised two grounds at the time of hearing. According to him, the 2nd respondent - appellate authority did not considered the grounds urged by the petitioner and without assigning any reason has confirmed the same. He has also contended that the 1st respondent while calculating the converted land has considered the entire area as a site without giving deductions to the development charges that are required to confirm a resident or the area which is required for deducting the rates and other amenities. Therefore, he contends that the very basis of calculation arrived at

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by the 1st respondent is bad. On these two grounds, he requests this Court to set aside the order passed by respondents-1 and 2 as per Annexures-J and K to the Writ Petition.

3. According to the Government Pleader, considering the market value of the property as on the date of presenting the sale deed, the 1st respondent has passed the order and there are no infirmities in passing the order by the 1st respondent. According to him, the 2nd respondent has also heard the petitioner and has considered the case of the petitioner and requests this Court to dismiss the petition.

4. After hearing the learned counsel for the parties, this Court is of the opinion that the 1st respondent while calculating the converted land has considered the same as value of a residential site without any basis. If an area of 3 acres 27 guntas has been converted from agricultural to residential, then naturally if a layout has to be formed, 50

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to 60% of the area has to be left out for the formation of roads. This aspect has not been considered by the 1st respondent while passing the order and the 1st respondent in an average has calculated the value of the converted land at the rate of Rs.25/- per sft. without any basis. Therefore, this Court is of the opinion that both 1st and 2nd respondent have not applied their mind properly and the impugned order has been passed. In the circumstances, this Writ Petition is required to be allowed.

5. Accordingly, the Writ Petition is allowed. Annexures-J and K passed by the 1st and 2nd respondent are hereby quashed. The matter is remitted back to the 1st respondent for fresh consideration in accordance with law.

Sd/-
Judge

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