(2011) 06 AHC CK 0165

In the Allahabad High Court

Case No : Misc. Single No. 3514 of 2011

Ajaz Ahmad APPELLANT

Vs

State of U.P. and Others RESPONDENT

Date of Decision : 06-06-2011

Acts Referred:
Stamp Act, 1899 — Section 27, 56(1A)

Citation : (2011) 06 AHC CK 0165

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—Heard learned Counsel for the Petitioner and learned Standing Counsel.

2. Learned Counsel for the Petitioner submits that Petitioner purchased an agricultural plot, measuring area of 0.085 hectare, situated at Village Gird Gonda, Pargana, Tehsil and District Gonda for consideration of Rs. 80,000/- through registered sale deed and he paid stamp duty to the tune of Rs. 18,410/- on 6.8.2008. Thereafter, without conducting spot inspection, the Sub-Registrar (Sadar), Gonda submitted a report with regards to deficiency of stamp duty and on that basis, a case, bearing No. 14/153/08-09 for payment of deficiency of Stamp Duty was instituted against the Petitioner before Additional Sub-Divisional Officer, Gonda. Notice was issued to the Petitioner and in reply thereof, he filed his objection, stating therein that he has complied with the provisions of Section 27 of the Indian Stamp Act. The Additional Sub-Divisional Magistrate, vide order dated 21.1.2011, imposed the stamp deficiency and penalty. Feeling aggrieved, the Petitioner filed an appeal before the Commissioner, Devi Patan Division, Gonda, stating therein that the order dated 21.1.2011 is without jurisdiction insofar as it has been passed by the Additional Divisional Officer, Gonda, whereas only Collector is empowered to impose the stamp deficiency and penalty for any undervalued instrument/registered sale-deed. The Commissioner, vide order

dated 3.5.2011, dismissed the appeal. Hence the instant writ petition.

3. Learned Counsel for the Petitioner submits that land in question was recorded in the revenue record as agricultural land and the Petitioner had purchased the same for agricultural purposes and the same is still being used for agricultural purposes and on the adjoining plots also the agricultural activities are going on till today and as such, the imposition of stamp duty treating the same as residential cannot be justified by the opposite parties. In support of his submission, he relied upon the judgment and order dated 15.4.2004 passed by a Division Bench of this Court in Civil Misc. Writ Petition No. 16347 of 1990 and the judgment and order dated 1.4.2008 passed in Writ Petition No. 3934 of 2005 (MS) [Smt. Anusuiya Singh v. Commissioner, Faizabad Division, Faizabad and Ors.].

4. Prima facie, a case for interim relief is made out.

5. Admit.

6. Let counter affidavit be filed within next six weeks. Rejoinder affidavit may be filed within next four weeks.

7. List immediately thereafter.

8. Till the next date of listing, the operation and implementation of the judgment and order dated 3.5.2011 passed by the Additional Commissioner, Devi Patan Division, Gonda in Appeal No. 100 u/s 56(1-A) of the Indian Stamp Act and the order dated 21.1.2011 passed by the Additional Sub-Divisional Officer, Gonda, as contained in Annexure Nos. 1 and 2, respectively, shall remain stayed.