
(1997) 12 AHC CK 0030
In the Allahabad High Court
Case No : C.M.W.P. No. 34746 of 1991

Anil Kumar Jain

APPELLANT

Vs

Collector/Collector Stamp, Etawah and others

RESPONDENT

Date of Decision : 10-12-1997

Acts Referred:

Constitution of India, 1950 — Article 226
Stamp Act, 1899 — Section 33, 47A, 48

Citation : (1998) 2 AWC 929 : (1998) RD 276

Hon'ble Judges : O.P. Jain, J; D.S. Sinha, J

Bench : Division Bench

Advocate : Rakesh Kumar Porwal, for the Appellant;

Judgement

D.S. Sinha and O.P. Jain, JJ.—Heard Sri Rakesh Kumar Porwal, learned counsel appearing for the petitioner and Sri A. N. Shukla, learned standing counsel representing the respondents.

2. By means of this petition under Article 226 of the Constitution, the petitioner prays that the recovery certificate dated 18th June, 1981, a photo-copy whereof to Annexure-1 to the petition, be quashed. Along with the petition, the petitioner also moved an application for incorporating additional prayer for quashing the order dated 13th August, 1987, a photo-copy whereof is Annexure-4 to the petition. The order dated 13th August, 1987 was passed by the Assistant Commissioner Stamp, Allahabad Division, at Etawah, the respondent No. 3, in proceedings u/s 47A/33 of the Indian Stamp Act, 1899 (hereinafter called the Act), as amended by the State of Uttar Pradesh and the impugned recovery certificate has been issued by way of implementation of the said order dated 13th August, 1987.

3. The learned counsel contends that the impugned recovery certificate is without jurisdiction inasmuch as it has been issued by the Collector who himself had passed the order dated 13th August, 1987. This argument, in the opinion of the Court, is totally misconceived and clearly betrays the ignorance of the

provisions of Section 48 of the Act as substituted by the U. P. Act No. 49 of 1975 which enjoins upon the Collector to recover all dues and penalties and other sums required to be paid under the Act as arrears of land revenue.

4. Learned counsel of the petitioner also contends that the order dated 13th August, 1987 upon which the recovery certificate is founded is bad inasmuch as it was passed in violation of the principles of natural justice as the petitioner was not granted any opportunity of hearing. This argument is factually incorrect. A perusal of the order dated 13th August, 1987 discloses that the petitioner was issued due notice and he had also filed his written reply dated 23rd May, 1986. Thus, this contention also does not hold water.

5. All told, in the opinion of the Court, this petition lacks merit and deserves to be dismissed.

6. Accordingly, the petition is dismissed. Interim order dated 19th December, 1991 shall stand discharged. The respondents shall take prompt steps to effect the recovery of the outstanding amount.