(2011) 01 AHC CK 0042

In the Allahabad High Court

Case No : C.M.W.P. No. 15618 of 1992

Arvind Varshney and Others — APPELLANT

Vs

Chief Controlling Revenue Authority and Others — RESPONDENT

Date of Decision : 03-01-2011

Acts Referred:

Stamp Act, 1899 — Section 47A(4)
Stamp Rules — Rule 341(3)

Citation : (2011) 113 RD 496

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajes Kumar, J.—By means of the present petition the Petitioner is challenging the order of the Chief Controlling Revenue Authority dated 12.3.1992 passed in Stamp Revision No. 522 (R) of 1990-91. The said revision was filed by the Petitioner against the order dated 19.6.1990 passed by the Additional Collector (Finance & Revenue), Aligarh, directing the Petitioner to pay the deficit stamp duty of Rs. 1,52,467.50 P. The revisional authority has modified the order of the Additional Collector to the extent directing the Petitioner to pay additional stamp duty at the rate of 2% on the valuation of Rs. 4,86,220/-.

2. The brief facts of the case are that the Petitioner has purchased two houses on 18.8.1988 bearing No. 3/257 and 3/258 constructed over the land measuring 2508 sq. mt. situate on Marris Road, Aligarh, for a consideration of Rs. 8,00,000/- and paid stamp duty accordingly. The Sub-Registrar has referred the matter u/s 47-A(4) of the Stamp Act to the Additional Collector (Finance & Revenue), Aligarh, vide its letter dated 20.2.1990. In the said reference letter it has been stated that two houses bearing No. 3/186 and 3/187, consisting of four rooms and two store rooms have been let out to UPSEB on a monthly rent of Rs. 780/-. It is also stated that the said two houses are on 2508 sq. mts. of land. He has valued the property at Rs. 2,34,000/- on the basis of Stamp Rules. The

Additional Collector has valued the property at Rs. 18,51,440/-. He, however, valued the land at the rate of 650/- per sq.mt. at Rs. 1630,200/- and accordingly demanded the stamp duty on the amount of Rs. 10,50,440/- at Rs. 1,52,467.50 P.

3. Aggrieved by the order of the Additional Collector (Finance & Revenue) the Petitioner filed revision before the Chief Controlling Revenue Authority. The revision has been allowed in part.

4. Being aggrieved by the order, the Petitioner filed the present writ petition.

5. Heard Sri Manoj Kumar Gupta, learned Counsel for the Petitioner, and Sri Nimai Das, learned Standing Counsel.

6. Learned Counsel for the Petitioner submitted that the entire land and building was let out to UPSEB. This recital is in the sale deed also and has not been disputed by the Sub-Registrar in the referring order or by any authority. Therefore, the revisional authority have erred in segregating the land over which the construction was made and the vacant land for the purposes of valuation; the entire land and building should be valued as per Rule 341(3), i.e., 25 times of the annual rent; that even though the revisional authority has agreed with the contention of the Petitioner that the land and building construed one unit and their separate valuation is not warranted, as held by the Apex Court in the case of State of Kerala Vs. P.P. Hassan Koya, still the vacant land has been separately valued as per circle rate applicable to the land and the building has only been valued in accordance to Rule 341(3). He further submitted that in the referring order the valuation of the property itself has been taken at Rs. 2,34,000/- as per the Stamp Rules and there is no finding that the valuation taken by the Petitioner was less than the valuation of the property as per rules and, therefore, the referring order itself was illegal.

7. Sri Nimai Das, learned Standing Counsel, submitted that the revisional authority has given the benefit of the land over which the building was constructed and also of the appurtenant land which has been let out and has valued the land and building in accordance to Rule 341(3) of the Stamp Rules and further has rightly valued the vacant land on the basis of the market rate of the said land.

8. I have heard learned Counsel for the parties, perused the impugned orders and considered the rival submissions.

9. In the referring order dated 20.2.1990 (Annexure ''3'' to the writ petition) it is clearly mentioned that the two houses No. 3/186 and 3/187 are over 2508 sq. mts. of land in which four rooms, and two store rooms are constructed have been let out to UPSEB on a monthly rent of Rs. 780/-. It is further mentioned that as per Stamp Rules the valuation of the property come to Rs. 2,34,000/-. There is nothing in the referring order that the valuation shown by the Petitioner was less than the value as per Stamp Rules. In the absence of such finding, in

my view, the reference by the Sub-Registrar to the Additional Collector u/s 47-A itself was not justified. The Apex Court in the case of State of Kerala v. P.P. Hassan Koya (supra) has held that the land and building constitute one unit and their separate valuation is not warranted. In the sale deed there is a clear recital that the entire land and building has been let out to UPSEB. There is nothing on record to the contrary that only the building has been let out and not the vacant land also. In the circumstances, the revisional authority has erred in valuing the vacant land separately applying the market rate to the land. The order of the revisional authority and the Additional Collector (Finance & Revenue) are thus not sustainable.

10. In the result the writ petition is allowed. The order dated 12.3.1992, passed by the Chief Controlling Revenue Authority, U.P., in the Stamp Revision No. 522(R) of 1990-91 and the order of the Additional Collector (Finance & Revenue), Aligarh, dated 19.6.1990 are hereby set aside. There is no order as to costs.

Petition Allowed