(2013) 08 AHC CK 0078

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 44354 of 2013

Gaurav Singh Raghav APPELLANT

Vs

State of U.P. and Others RESPONDENT

Date of Decision : 29-08-2013

Acts Referred:

Citation : (2013) 9 ADJ 125 : (2014) 4 ALJ 48 : (2013) 101 ALR 367 : (2014) 4 AWC 3622 : (2013) 121 RD 191

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : V.C. Srivastava, for the Appellant;

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Petitioner before this Court seeks quashing of the order of Chief Controlling Revenue Authority, Member Judicial, Board of Revenue, U.P., Allahabad dated 20.7.2013 whereunder the revision filed by the petitioner u/s 56(1) of the (Indian) Stamps Act has been returned on the ground that it cannot be entertained by the Board of Revenue in view of the Government Notification dated 8.12.2008 as the value of the disputed amount of stamp duty was less than Rs. 10 lacs. This order is being challenged on the ground that the total disputed amount in the revision was the deficiency of stamp duty to the tune of Rs. 8,62,200/- and penalty of Rs. 8,62,200/-. Thus, the total disputed amount was Rs. 17,34,400/- plus interest thereon which was much in access of Rs. 10 lacs. In terms of notification dated 8.12.2008. Therefore, the revision as filed by the petitioner was maintainable before the Board of Revenue. In support of his contention, the petitioner has referred to the Government order dated 4.5.2003 copy whereof is enclosed as Annexure 10 to the present writ petition. It is his case that since total disputed amount exceeding Rs. 10 lacs, his revision was maintainable before the Board of Revenue it was returned because of misreading of the notification dated 8.12.2008. Standing Counsel in reply disputes the correctness of contentions so raised. He submits that the State Government in exercise of power u/s 76(A) of the (Indian) Stamps Act has delegated the revisional powers u/s 56(1) upon various authorities having regard to the value of the disputed stamp duty. For the disputed amount of stamp duty is between 2.5 lacs to Rs. 10 lacs the usual turnover has been made the Revisional Authority. He explain that the amount of penalty and interest has not included for determining the disputed amount of stamp duty.

2. He therefore, submits, that since in the facts of the case disputed amount of stamp duty was less, than Rs. 10 lacs the Board of Revenue has rightly held that the revision as filed was not maintainable before the Board of Revenue.

3. I have heard the learned counsel for the parties and perused the records.

Section 56(1) of the (Indian) Stamps Act confers revisional powers upon the Chief Revenue Controlling Authority in respect of orders passed by Collector under Chapter IV and Chapter V and under Clause A of first proviso to Section 26.

4. Section 56(1) A confers appellate power upon the Chief Controlling Revenue Authority with certain conditions attached thereto, as per the proviso to the said sub Section against the orders made by the Collector under Chapter IV, Chapter V and Clause A of Section 26 of the (Indian) Stamps Act. It also prescribes the limitation for filing of such appeal.

5. It is clear from the plain reading of Section 56(1) and Section 56(1)-A of the Stamp Act that the two provisions confers different powers (a) Revisional Power and (b) the appellate power upon the Chief Controlling Revenue Authority in respect of the orders made by the Collector under the provisions referred therein. The appellate power is hedged with limitation and other condition of deposit of 1/3rd of the disputed amount. Proviso to Section 56(1)-A further stipulates that for the purpose of deposit of 1/3rd of the disputed amount not only the deficit amount of stamp duty is to be taken into consideration but also the penalty amount has also to be added on satisfactory proof of deposit of 1/3rd of two amounts, the appeal becomes competent.

6. It is thus clear that any person aggrieved by the order of Collector under Chapter IV and Chapter V and Section 26(A) of the (Indian) Stamps Act has two remedies available to him; first, to file a revision u/s 56(1) and second, to file an appeal with conditions imposed u/s 56(1)-A of the Act.

7. The petitioner in the facts has not filed any appeal before the State Government referable to Section 56(1) of the (Indian) Stamps Act which fact is further fortifies from the conduct of the petitioner of not depositing the 1/3rd of the disputed amount.

8. It is admitted to the petitioner in the facts of the case that he had invoked the powers as is conferred u/s 56(1) only by filing of revision.

9. Section 76(A) of the (Indian) Stamps Act confers a power upon the State Government to delegate the powers conferred upon the Chief Controlling

Revenue Authority u/s 56(1) of the (Indian) Stamps Act upon any other subordinate revenue authority as may be specified in the Gazette Notification issued for the purpose.

10. The State Government in exercise of such power has delegated the revisional powers upon subordinate authorities vide notification published in Gazette dated 8.12.2008.

11. Under the said notification dated 8.12.2008 it has been recorded that the Governor has been pleased to delegate the powers conferred upon the Chief Controlling Revenue Authority under Sub section (1) of Section 56 upon the subordinate Revenue Authority mentioned in column 1 of the schedule below.

12. In the schedule it has been provided that the Additional Commissioner shall exercise the powers u/s 56(1) in respect of the disputes where the value of stamp duty involved is Rs. 2.5 lacs but not more than Rs. 10 lacs. It is further provided in the notification that the Revenue Authority''s mentioned in column (1) shall not entertain any case where the disputed amount of stamp duty is below or above the pecuniary jurisdiction as mentioned in column 2 of the schedule.

13. It is therefore, clear that so far as the revisional powers u/s 56(1) of the (Indian) Stamps Act are concerned, for a case where the disputed stamp duty is between Rs. 2.5 lacs to Rs. 10 lacs, the power has been delegated to the Additional Commissioner vide notification dated 8.12.2008. No authority other than the Additional Commissioner nor any authority below the Additional Commissioner can entertain a revision made u/s 56(1) where the disputed amount of stamp duty is between Rs. 2.5 lacs to Rs. 10 lacs.

14. So far as the Government Order dated 4.5.2003 relied upon by the petitioner is concerned, suffice is to record that they take care all the impacts of proviso to Section 56(1)A. Government Order dated 4.5.2003 will not in any way dilute or affect/effect the delegation of revisional power, vide notification dated 8.12.2008 the two notifications operate in separate fields and are not overlapping.

15. In view of the said conclusion this Court has no hesitation to record that the order made by the Board of Revenue impugned in the present writ petition is strictly in accordance with law and based on true and correct reading of Section 76 read with Section 56(1) of the Stamp Act and the notification dated 8.12.2008. There is no merit in the case, therefore, the writ petition is accordingly dismissed.