(2014) 09 AHC CK 0276

In the Allahabad High Court

Case No : Writ-C No. 47106 of 2014

Hemendra Wati APPELLANT

Vs

State of U.P. RESPONDENT

Date of Decision : 05-09-2014

Acts Referred:

Stamp Act, 1899 — Section 33, 47

Citation : (2015) 108 ALR 43 : (2014) 125 RD 619

Hon'ble Judges : Surya Prakash Kesarwani, J

Bench : Single Bench

Advocate : Sanjay Kumar Srivastava, Advocate for the Appellant

Judgement

@DELETEUPPERDATA

Surya Prakash Kesarwani, J.—Heard Sri S.C. Shukla holding brief of Sri Sanjay Kumar Srivastava, learned Counsel for the petitioner and Sri B.P. Singh Kachhwah, learned Standing Counsel for the respondents. Aggrieved with the order dated 31.7.2013 passed by the Additional District Magistrate (Finance & Revenue), Aligarh in Stamp Case No. 06 of 2013-14, under section 33/ 47 of the Indian Stamp Act, 1899 (hereinafter referred to as the ''Act'') in respect of Instrument No. 11190 dated 5.10.2012 relating to Khasra Plot No. 356, area 50.16 Sq. Mts. situate in Village Ramgarh Panjupur, Pargana and Tehsil Coal, district Aligarh, determining deficiency of stamp duty of Rs. 20,320/-, registration fee of Rs. 8,160/- and penalty of Rs. 20,320/- as well as the order dated 19.2.2014 passed by the Deputy Commissioner (Stamp), Aligarh Division, Aligarh in Stamp Revision No. 57 of 2013-14, the petitioner has filed this writ petition.

Briefly stated the facts of the present case are that by Instrument No. 11190 of 2012, the aforesaid plot in question was purchased by the petitioner showing it as a vacant plot with no construction. A spot inspection was conducted by the Sub Registrar-II Coal, Aligarh and a report dated 22.2.2013 was submitted. As per report on the ground floor a construction of 33.4 Sq. Mt. and on the first floor construction of 14.86 Sq.Mt. was found. The petitioner submitted an objection dated 10.5.2013 and also filed an affidavit.

2. It is not the case of the petitioner that the construction as found by the Registrar in the spot inspection was raised subsequent to the execution of sale-deed. On these facts I do not find any infirmity in the determination of deficiency in stamp duty in respect of the instrument in question. However, equal amount of penalty imposed by the Additional District Magistrate and upheld by the revising authority, appears to be excessive and not based on any reason. For levying 100% penalty, the respondents have not recorded any reason, it has been imposed mechanically. Under the circumstances, the quantum of penalty needs to be reduced. Accordingly, the penalty levied at Rs. 20,320/- is reduced to Rs. 3000/-. In result, the writ petition is partly allowed. The penalty levied is reduced to Rs. 3,000/-. The petitioner shall deposit the entire amount of deficiency of Court fees along with penalty of Rs. 3,000/- within two months, if not already deposited.

