(2014) 09 AHC CK 0277

In the Allahabad High Court

Case No : Writ-C No. 7901 of 2001

Kailash Narayan	APPELLANT
Vs	
Commissioner	RESPONDENT

Date of Decision : 09-09-2014

Acts Referred:

Citation : (2015) 108 ALR 51 : (2014) 125 RD 620

Hon'ble Judges : Surya Prakash Kesarwani, J

Bench : Single Bench

Advocate : Ravindra Singh, Advocate for the Appellant

Judgement

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Surya Prakash Kesarwani, J.—Heard Sri Ravindra Singh, learned Counsel for the petitioner and Sri B.P. Kachwah, learned Standing Counsel for the respondents. This writ petition has been filed challenging the order dated 30th November, 2002 passed by the prescribed authority/SDM Mau (Chitrakoot) in stamp case 27 under section 47-A of the Indian Stamp Act, 1899 (hereinafter referred to the "Act") in respect of sale-deed registered on 8.5.1997 of part of land of Khasra plot No. 1943/1 and 1944/1 area 0.175 hectare determining the deficiency of the stamp duty and registration fee of Rs. 2,57,590/- and the order dated 30th July, 2009 passed by the Commissioner Chitrakoot Division Banda in Appeal No. 52/2002-03 and the order dated 20th January, 2011 passed by the Commissioner Chitrakoot Division on the review application.

2. Briefly stated the facts of the case are that the aforesaid plots in question were purchased by the petitioner showing it as an agricultural land in the sale-deed and accordingly on value of Rs. 20,000/-, stamp duty of Rs. 1600 and registration fee 410 was paid. The said sale-deed was registered on 8.5.1997. On the same day, Sub Registrar enquired and referred the matter on the ground that on the vended property, there is petrol pump and residential rooms and the land is not agricultural land. Spot inspection was conducted by the Nayab Tehsildar,

who found that petrol pump was existing on the vended property on the date of registration of the sale-deed, which is situate on Allahabad Banda Road. It was also reported that there are two residential rooms, boundary wall and office on the vended property. The prescribed authority determined the value of the vended property as on the date of registration of the sale-deed at Rs. 31,92,500/- and thus created a demand of deficiency in stamp duty of Rs. 2,53,800/- and deficiency in stamp registration fee of Rs. 4590/- total Rs. 2,57,590/- vide order dated 30.11.2002. Aggrieved with this order, the petitioner filed an appeal No. 52 of 2002-03 before the Commissioner Chitrakoot Division Banda, which was dismissed vide order dated 30th July, 2009. The finding of fact based on relevant materials and evidences on record was recorded to the effect that on the date of execution of sale-deed there was a petrol pump on the vended property. This finding of fact recorded in the impugned order of the Divisional Commissioner has not disputed in the writ petition. The review application filed by the petitioner before the Divisional Commissioner was rejected by an order dated 20th January, 2011. Thereafter, petitioner has filed this writ petition.

3. This Court vide order dated 10 February, 2011 directed ADM (F & R) Chitrakoot to make a fresh spot inspection in the presence of the petitioner and to give its report. ADM (F & R) Chitrakoot inspected the vended property on 12th November, 2011. Spot Inspection report of the ADM dated 12.11.2011 has been filed as Annexure CA-2 of the counter affidavit of Sri Jiya Lal, Tehsildar, Mau Chitrakoot. As per report, petrol pump is existing on the vended property since the year 1997.

4. This Court cannot loose sight of the fact that the sale-deed of the vended property was presented for registration on 8th May, 1997. On the same day, Sub Registrar enquired the matter and submitted his report dated 8th May, 1997 and referred the matter. He found that on the vended property there exist petrol pump and residential rooms and the vended property is not agricultural land.

5. In all the reports starting from report dated 8th May, 1997 of the Sub Registrar, it has been found that the petrol pump, and residential rooms etc. were existing on the vended property on the date of execution of the sale-deed. The findings recorded by the appellate authority and the adjudicating authority are finding of fact based on consideration of relevant materials and evidences on record. Such findings cannot be interfered with in the writ jurisdiction. Writ petition is wholly misconceived and therefore, deserves to be dismissed. In result, writ petition fails and is hereby dismissed.