
(2016) 11 RAJ CK 0101
In the Rajasthan High Court
Case No : Civil Writ No. 13249 of 2016

Rajiv Jain

APPELLANT

Vs

The Collector (Stamps)

RESPONDENT

Date of Decision : 17-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 WLCRajUC 35

Hon'ble Judges : Mr. Sandeep Mehta, J.

Bench : Single Bench

Advocate : Mr. Sanjeet Purohit, Advocate, for the Petitioner; Mr. N.S. Rajpurohit, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Mr. Sandeep Mehta, J.— Heard.

By way of the instant writ petition, the petitioner has approached this Court for challenging the order dated 5.1.2016 (Annex.10) passed by the Collector (Stamps), Bhilwara.

2. The Civil Court forwarded the agreement in question to the Collector (Stamps), Bhilwara for assessment and evaluation under the provisions of the Rajasthan Stamps Act, 1998. Thereafter, the Collector (Stamps), Bhilwara passed the impugned order dated 5.1.2016 in Case No. 181/2013 whereby after calculating various amounts under the heads of deficiency in stamp duty, surcharge, interest and penalty etc., amount totalling to Rs.1,67,615/- has been imposed upon the petitioner.

3. Looking to the short issue involved and as the only contesting party is the respondent no.1 Collector (Stamps), Bhilwara, notice of the writ petition was given to Mr. N.S. Rajpurohit, AGC who represents the department in this Court.

4. With the consent of the parties, the matter is heard finally and decided today

itself.

5. Counsel for the petitioner submits that the impugned order was passed in an arbitrary fashion without providing any opportunity of showing cause or hearing to the petitioner. He submits that the matter was received in the office of the Collector (Stamps), Bhilwara from the Civil Court on 10.9.2014. Notice was ordered to be issued to the parties and the matter was then adjourned to 30.9.2014. However, the proceeding sheet of the Collector (Stamps), Bhilwara show no further progress in the matter and straight off, on 5.1.2016, the file was taken up and the order Annex.10 was passed to the above effect in a totally arbitrary manner. He thus submits that the impugned order is grossly illegal, perverse, arbitrary and should be quashed and set aside and the case be remanded to the Collector (Stamps), Bhilwara for passing a fresh order as per law after providing an opportunity of hearing to the concerned parties.

6. Counsel for the respondent no.1 does not dispute the factual position that the order under challenge was passed without providing any opportunity of hearing to the parties. Furthermore, the proceedings undertaken by the Collector (Stamps), Bhilwara also appear to be grossly improper and highhanded for the reason that even the order-sheets of proceeding were not drawn properly and faithfully.

7. As an upshot of the above discussion, the instant writ petition deserves to be and is hereby allowed. The impugned order Annex.10 dated 5.1.2016 is quashed and set aside. The matter is remitted back to the Collector (Stamps), Bhilwara for passing a fresh order in accordance with law after providing an opportunity of hearing to the parties. The matter shall be decided by the Collector (Stamps), Bhilwara within a period of six weeks from the date of receipt of copy of this order.

8. Stay petition also stands disposed of.