(1997) 03 AHC CK 0195

In the Allahabad High Court

Case No : C.M.W.P. No. 6445 of 1994

Rakesh Kumar Agarwal and Others APPELLANT

Vs

Chief Controlling Revenue Authority, Allahabad/Board of Revenue and Others RESPONDENT

Date of Decision : 14-03-1997

Acts Referred:
Stamp Act, 1899 — Article 23, 35, 47A

Citation : (1997) AWC 13 Supp : (1997) RD 383

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : S.U. Khan, for the Appellant;

Final Decision : Allowed

Judgement

M. Katju, J.—This writ petition has been filed against the impugned orders dated 5.7.1993 and 21.12.1993, Annexures 6 and 7 to the writ petition,

2. Heard Sri S. U. Khan, learned Counsel for the Petitioner and learned Standing Counsel for the Respondents.

3. The facts of the case are that the Petitioner purchased leasehold rights in respect of plot Nos. D11A and C23 to the Industrial Estate, Aligarh measuring 2605 sq. yards with some constructions thereupon from Sri N. K. Bansal who had purchased the same from the original leaseholders. The said leases are granted by the Industries Department, U.P. for 99 years. After execution of the transfer deed and delivery of possession to the Petitioner, the Sub-Registrar, Koli got an impression that the market value of the property is more than Rs. eight lacs which was the value shown on the transfer deed. Hence he sent the matter to the A.D.M. (Finance and Revenue) u/s 47A of the Stamp Act. The Petitioner filed objection before the A.D.M., Finance vide Annexure 2 to the petition. The A.D.M. (Finance) got the premises inspected by the Addl. City Magistrate, who gave his report dated 23.4.1993 estimating the market value to be Rs. 10.50 lacs vide

Annexure-3 to the petition. However, the A.D.M. (Finance), Aligarh passed an order dated 5.7.1993 Annexure 6 to the writ petition fixing the market value to be Rs. 25.50 lacs. Against that order, the Petitioner filed a revision which has been dismissed by the Respondent No. 1. Hence this petition.

4. A perusal of the order of Respondent No. 1 dated 21.12.1993 shows that the Respondent No. 1 has taken the assumed rental value to be Rs. 7,000 per month and has observed that this rental value shall be cross-checked by computing costs of land and building. The Respondent No. 1 has further observed that even Rs. 500 per sq. meter for leasehold land would be a low rate. No basis for making these observations has been given by the Respondent No. 1 in its order. The Respondent No. 1 should have got some exemplars of other land in the vicinity which had been sold at the relevant time. The Respondent No. 1 has given no basis for the observation that Rs. 500 per sq. meter is a low rate for leasehold land. The order of the Respondent No. 1 is based on conjectures and surmises and hence cannot be sustained.

5. The Respondent No. 1 has further observed that the transaction falls within the purview of Article 23 of Schedule 1B of the Stamp Act. Article 23 is with regard to conveyances, whereas Article 35 is a specific Article relating to lease. It is well settled that the special law overrides the general law, and hence Article 35 will govern the case and not Article 23.

6. In view of the above, this petition is allowed. The impugned order of the Respondent No. 1 dated 21.12.1993 is quashed. The case is remanded to Respondent No. 1 to pass a fresh order within three months of production of a certified copy of this order. It will be open to the Petitioner to take all the arguments factual or legal which he is advised to take before the Respondent No. 1. Till the decision of the Board of Revenue, the impugned order passed by this Court dated 19.2.1994 shall continue.