(2011) 12 AHC CK 0268

In the Allahabad High Court

Case No : Writ C No. 37013 of 1996

Rakesh Kumar Goel APPELLANT

Vs

State of U.P.and others RESPONDENT

Date of Decision : 22-12-2011

Acts Referred:

Citation : (2011) 12 AHC CK 0268

Hon'ble Judges : Abhinava Upadhya, J

Final Decision : Allowed

Judgement

Abhinava Upadhya, J.—By means of this writ petition, the petitioner has challenged the order of the Assistant Commissioner (Stamp), Shahjahanpur dated 18.12.1993 and the order of the Chief Controlling Revenue Authority, U.P.at Allahabad dated 24.8.1996.

2. The petitioner had purchased certain property by a sale deed dated 2.12.1992 showing the cost of the land and the structure standing thereon to be Rs.1,50,000/ and on this consideration stamp duty was paid. However, a complaint was made by some person that the market value of the property is Rs. 4,50,000/ and,the petitioner has shown the value of the property less than the market value to evade the stamp duty.

3. Upon the aforesaid complaint, notice was issued to the petitioner and the petitioner has submitted his reply and the property in question was also inspected by the Assistant Commissioner (Stamp). However, he assessed the value of the property at Rs. 3,00,000/ (Rs. Three lacs) holding that the house property could fetch rent of Rs. 1000/ per month and thereby held that the stamp duty to the extent of Rs. 21,500/ has deficiently been paid and imposed a fine of Rs. 5/.

4. Against the aforesaid order the petitioner preferred revision before the Chief Controlling Revenue Authority being Stamp Revision No. 1256 of 9394 and the revisional authority held that since the property in question was not fully built up,

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therefore, there was no question of fetching any rent and the valuation on the basis of rent was found incorrect as was done by the Assistant Commissioner but assessed the market value of the property in question to be Rs. 2,67,220/ and thereby reduced demand from Rs. 21,500/ to Rs.16787.50/.

5. Learned counsel for the petitioner submits that no basis is indicated in the order with regard to the determination of market value of the property. On the other hand, it is claimed that the petitioner has submitted five sale deeds of the nearby areas as exemplar for determination of market value of the property in which property has been shown to be between Rs. 230/ per square meter to Rs. 325/ per square meter and, therefore, the Chief Controlling Revenue Authority also erred in law in determining the market value of the property in question.

6. Learned Standing Counsel appearing for the Staterespondents has defended the impugned order and a stand has been taken in the counter affidavit that the order of the Chief Controlling Revenue Authority is just and proper.

7. I have considered the submissions made by the learned counsel for the petitioner and the learned Standing Counsel appearing for the Staterespondents.

8. The determination of market value of the property as has been held by this Court is to be arrived at only upon the principles by which the compensation is determined under the Land Acquisition Act.

9. This Court in the case of Ram Khelawan alias Bachcha Vs. State of U.P. & another reported in 2005 (2) AWC 1087 has enumerated the procedure in detail in paragraph nos. 9,10 and 11. I find that the Commissioner as well as the Assistant Commissioner (Stamp) has not adopted the procedure prescribed by this Court for the determination of the market value of the property.

10. Under the facts and circumstances of the case, the determination of market value having not been done in compliance of the procedure prescribed, the impugned orders are liable to be quashed.

11. Therefore, the impugned orders dated 18.12.1993 and 24.8.1996, contained in Annexure nos. 6 and 7 are hereby quashed.

12. The writ petition is, accordingly, allowed.

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