
(2013) 09 AHC CK 0248
In the Allahabad High Court
Case No : C.M.W.P. No. 18621 of 2013

Shri L.R. Industries

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 26-09-2013

Acts Referred:

Citation : (2014) 102 ALR 176 : (2014) 122 RD 262 : (2013) 121 RD 804

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : Sumit Daga, for the Appellant; V.K. Birla, for the Respondent

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Heard Sri Sumit Daga, learned Counsel for the petitioner, Sri V.K. Birla, learned Counsel for U.P. State Industrial Development Corporation, Ghaziabad and learned Standing Counsel for the State-respondents. Petitioner seeks quashing of the order dated 28th February, 2013 passed by the appellate authority i.e. respondent No. 2 and the orders dated 28th September, 2010 and dated 1st February, 2013 passed by the authority under the Indian Stamp Act.

2. In compliance to the order passed by the Court dated 12th September, 2013 in connected Writ Petition No. 17213 of 2013 (Krishna Pal Verma v. State of U.P. and others), Sri K.K. Yadav, Regional Manager, U.P. State Industrial Development Corporation, Ghaziabad (hereinafter referred to as the "UPSIDC") is present in the Court along with his personal affidavit.

3. To the affidavit filed today, petitioner does not propose to file any rejoinder-affidavit, inasmuch as the deed subject-matter of the proceedings under the Indian Stamp Act giving rise to the present writ petition was admittedly the third lease of the same plot, which was earlier lease-out in favour of Sri D.B. Kulkarni, S/o Bhal Chandra K. Rao Kulkarni, R/o 50, New Gandhi Nagar, Ghaziabad. It is also not in dispute that at the time the second lease was executed by UPSIDC in respect of the plot in question, there were standing constructions and further

that no certificate was ever issued at the time of execution of second lease qua the standing constructions/transfer deed of said constructions having been executed separately by the competent authority of UPSIDC i.e. the Regional Manager.

4. The second lease was executed in respect of same plot on the basis of a transfer application dated 20th February, 1990 and thereafter on second transfer application being made, the third lease of the same plot was executed in favour of present petitioner. It is also not in dispute that at the time of execution of third lease in favour of the present petitioner, there were standing constructions over the plot in question.

5. It is also not in dispute that neither any sale-deed was got executed in respect of the constructions, which were standing on the plot along with the lease-deed nor any certificate was issued by the competent authority of UPSIDC in respect of the constructions. Further the petitioner did not produce any such certificate or sale-deed in respect of the constructions, which were standing on the plot in question at the time of third lease deed in his favour, in the proceedings taken against the petitioner u/s 47A read with section 33 of the Indian Stamp Act or upto the appellate stage, it is only before this Court, after filing of the present writ petition, a statement has been made that now the petitioner has got sale-deed executed in respect of the standing constructions. An affidavit in that regard is on record.

6. The sale-deed now obtained by the petitioner cannot be the basis for any illegality being attributed to the order of the authorities u/s 47A read with section 33 of the Indian Stamp Act or that of the appellate authority u/s 56 of the Act.

7. For the reasons, which have been stated in detail by this Court (sic) Civil Misc. Writ Petition No. 42808 (sic) 2013 (Avinash Kumar Garg v. State of (sic) and others) decided on 30th August, 2013, it is established that the petitioner does not satisfy the requirements of the Government Orders dated 9th July, 2008 or of those dated 30th September, 2010, on the relevant date, deed was submitted for registration/on the date when the proceedings u/s 47A/33 of Indian Stamp Act were initiated or brought to its logical end or even at the stage of the decision of the appeal filed u/s 56 of the Indian Stamp Act. For the said reasons, this Court finds no ground to interfere with the orders impugned. The present writ petition is accordingly dismissed. The money already deposited by the petitioner shall be taken into consideration while affecting the recovery of the balance amount in terms of the orders impugned.