(2013) 07 AHC CK 0185

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 24952 of 1993

Smt. Munni Devi APPELLANT

Vs

Chief Controlling Revenue Authority and Others RESPONDENT

Date of Decision : 19-07-2013

Acts Referred:

Citation : (2013) 8 ADJ 425 : (2014) 2 ALJ 151 : (2013) 101 ALR 312 : (2014) 4 AWC 4190 : (2013) 121 RD 12

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Advocate : M.D. Singh ''Shekhar'' and R.D. Tiwari, for the Appellant;

Final Decision : Allowed

Judgement

Tarun Agarwala, J.—Heard Sri M.D. Singh Shekhar, the learned counsel for the petitioner and the learned Standing Counsel. Having the learned counsel for the parties, the Court finds that the Controlling Authority had passed an order u/s 47A of the (Indian) Stamp Act contending that there is a deficiency of stamp duty and imposed a sum of Rs. 10,807.50 towards deficiency of stamp duty and another Rs. 10,807.50 towards penalty. The Controlling Authority held that the valuation of the land? has to be calculated at the rate of Rs. 255/- per square meter on the basis of the circle rate issued by the Collector, which would be applicable on the land in question, since it was situated within the city limits and accordingly, valued the land at Rs. 1,12,150/-.

2. The petitioner, being aggrieved by the said order, has filed a revision before the District Judge, which was subsequently transferred to the Commissioner. The Commissioner partly allowed the revision and reduced the rate from Rs. 255/- per square meter to Rs. 200/- per square meter and also set aside the order relating to penalty but upheld the deficiency of stamp duty to a certain extent.

3. The revisional authority held that the valuation of the land has to be made on the basis of the potential value of the land that it could fetch in the open market

in future. The petitioner, being aggrieved, has filed the present writ petition.

4. The circle rate is only an assessment of the value of the land and does not discloses the market value. The value of the land under the Stamp Act has to be calculated on the basis of the market value of the land and not on the basis of the circle rate or on the basis of the potential value.

5. On the other hand, the land is recorded as an agricultural land and value of the agricultural land is required to be assessed as per Rule 340 of the United Provinces Stamp Rules, 1942 (U.P.).

6. The petitioner in paragraph 3 of the writ petition has categorically stated that the land purchased by him was agricultural land. No reply to this paragraph has been made by the respondents in their counter-affidavit.

7. In paragraph 4 of the writ petition, the petitioner has categorically stated that after the purchase of the land his name was mutated as a bhumidhar in the khatauni, which fact is admitted by the respondents in paragraph 3 of the counter-affidavit.

8. In the light of the aforesaid, the valuation, if any, has to be calculated on the basis of the land revenue and not on the basis of the circle rate or on the basis of the potential value of the land. In the light of the aforesaid admitted facts, the proceedings initiated by the respondents under the Indian Stamp Act are patently misconceived and are quashed. The impugned orders are also quashed. The writ petition is allowed.