(2016) 07 RAJ CK 0082

In the Rajasthan High Court

Case No : Civil Writ Petition No. 21374 of 2013

State of Rajasthan APPELLANT

Vs

Smt. Babita Agarwal RESPONDENT

Date of Decision : 19-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 2 WLCRajUC 374

Hon'ble Judges : Mr. Alok Sharma, J.

Bench : Single Bench

Advocate : Mr. Dheeraj Tripathi, Dy. G.C, for the Petitioner

Final Decision : Dismissed

Judgement

Mr. Alok Sharma, J.—Heard the counsel for the petitioner and perused the impugned order dated 23.07.2012 passed by the Rajasthan Tax Board dismissing the revision petition filed by the State and upholding the order dated 26.05.2006 passed by the Collector (Stamps).

2. The matter relates to valuation of land on which stamp duty was payable in respect of which a reference was made by the Sub-Registrar Shreemadhopur, Sikar to the collector (stamps). The collector (stamps) an enquiry found that land in issue was used for (agriculture), as evident from the site inspection report of the Nayab Tehsildar, situate at a distance of one kilometer from abadi, and even the Khasra Girdawari recorded the factum of agricultural operations on the land in issue no matter that it was recorded as gair mumkin abadi. The market value for levy of stamp duty on the sale transaction was thus lawfully deposited by the respondent-vendor, held the collector (stamps) dismissing the reference. The tax board has declined to interfere with finding of fact arrived at by the Collector (stamps) holding that land transacted was agricultural and stamp duty rightly paid in the first instance, making the Sub-Registrar''s reference liable to be rejected.

3. Mr. Dheeraj Tripathi appearing for the petitioner has however relied upon the department''s circular No. 2/2004 to contend that the land transaction in issue was liable to be valued at the residential rates as applicable in the area and not agricultural and stamp duty was to be levied accordingly. Both the Collector (Stamps) and the Tax Board erred in overlooking circular No. 2/2004. But on a query made by the Court as to whether the circular had any statutory foundation, counsel was unable so to state. The legal pedigree of the relied upon circular thus being suspect, the ground agitated based thereon, against finding of fact concurrently arrived at by two statutory authorities is quite untenable. Stamp duty on transactions of immovable property have to be valued of its market value not assumed value. The impugned order passed by the Collector (Stamps) and the Tax Board suffer neither from patent illegality nor from error of jurisdiction. The petition is without force.

4. Dismissed.

