(2009) 05 AHC CK 0808

In the Allahabad High Court

Triloki Nath APPELLANT

Vs

State of U.P. and Others RESPONDENT

Date of Decision : 11-05-2009

Acts Referred:
Stamp Act, 1899 — Section 47A

Citation : (2009) 3 AWC 2601

Hon'ble Judges : S.U. Khan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.U. Khan, J.—Heard learned Counsel for the parties.

2. This writ petition is directed against order dated 19.7.1999, passed in Case No. 512 of 1998, State of U.P. v. Triloki Nath. The order was passed by Assistant Stamp Commissioner/Collector (Stamp) District Kushi Nagar in respect of sale deed No. 2993/92. Proceedings for determination of stamp deficiency were initiated u/s 47A of Stamp Act. Through the said sale deed 0.20 acres land of Plot No. 2386 was sold in favour of the petitioner for Rs. 20,000. According to the inspection report the valuation was Rs. 1,60,000 and corresponding deficiency in stamp duty was Rs. 17,500 and deficiency in registration fee was Rs. 40. However, through the impugned order the Assistant Stamp Commissioner held that valuation was Rs. 2,43,000 and it was directed that Rs. 27,875 must be paid as deficiency in stamp duty, Rs, 85 as penalty and Rs. 40 as deficiency in registration fees (total Rs. 28,000). The said order was challenged through revision being Stamp Revision No. 34/118/K-1999. Additional Commissioner (II), Gorakhpur Division, Gorakhpur dismissed the revision on 31.5.2003. The said order has also been? challenged through this writ petition.

3. In my opinion both the impugned orders are not sustainable in law in so far as they direct the petitioner to pay stamp duty in excess of Rs. 17,500. In the notice given to the petitioner on the basis of which the case was initiated it was

mentioned that there was deficiency of Rs. 17,500. Accordingly, the authority concerned was not justified in determining the deficiency to be more than that, i.e., Rs. 27,875 and determining the valuation of the land to be Rs. 2,43,000 as against valuation of Rs. 1,60,000 determined at the time of inspection on the basis of which notice was issued to the petitioner and the case was registered.

4. Petitioner has also filed an application dated 7.5.2009 through which prayer for dismissal of the writ petition as withdrawn on payment of Rs. 17,540 has been made. The prayer has wrongly been made as the effect of the dismissal of the writ petition would be that total amount of Rs. 28,000 would become payable.

5. Accordingly, writ petition is allowed in part and the impugned orders are set aside in part. It is directed that petitioner should deposit Rs. 17,540, i.e. the amount directed to be paid by him through notice based on inspection report as mentioned in the order dated 19.7.1999. The said amount shall be paid within three months from today failing which 2% per month interest shall be payable thereupon since after three months till actual payment.

