(2012) 05 AHC CK 0078

In the Allahabad High Court

Case No : C.M.W.P. No. 11725 of 1998

Yatendra Kumar Singh APPELLANT

Vs

Commissioner, Moradabad Division and Others RESPONDENT

Date of Decision : 28-05-2012

Acts Referred:

Citation : AIR 2013 All 59 : (2013) 1 AWC 826

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Advocate : R.K. Yadav, for the Appellant;

Judgement

Amreshwar Pratap Sahi, J.—Heard learned counsel for the petitioner. The contention raised is that the show cause notice issued to the petitioner was for a deficiency of Rs. 1,778.50 paise only including penalty whereas while passing the order the Stamp Collector has enhanced the said amount to the tune of Rs. 23,740

A revision was filed against the same which has been dismissed.

2. Learned counsel submits that the document in question was only a correction deed, and therefore, no further Stamp duty was leviable as concluded by the Stamp Collector. It was not a new document of transaction and as such any imposition of deficiency of Stamp and penalty is without authority in law. The revision has also been dismissed on the same erroneous grounds hence the impugned orders deserve to be set aside.

3. Having perused the facts on record what appears is that the petitioner had initially purchased the share of the vendor which became subject matter of a partition suit and after the property was partitioned a particular plot came to the share of the petitioner. The vendor accordingly executed a fresh deed which according to the petitioner was only a correction deed.

4. In the opinion of the Court, the subsequent transaction was a fresh

transaction, inasmuch as, it was a transfer of a specific property. In the circumstances, this second documentation cannot be said to be a mere correction and was a complete transaction conferring distinct right, title and interest to the petitioner over the same which has a different identity.

5. In the circumstances, the Collector was justified in imposing the deficiency of Stamp Duty as well as the penalty. The second issue relating to enhancement of the amount as against the show cause notice does require a reconsideration, inasmuch as, the petitioner had raised his objections and had also taken grounds in his grounds of revision. In the circumstances, the revisional order dated 10.12.1997 is set aside and the matter is remitted back to the revising authority to adjudicate this issue relating to the enhanced amount of deficiency as is alleged to have been imposed on the petitioner at the time of passing of the final order. The revising authority shall consider the same and pass orders as expeditiously as possible preferably within a period of three months. The amount already deposited by the petitioner shall be subject to the final outcome of the revision.

The writ petition is partly allowed.