

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	<u>25.09.2023</u>		WPMS No. 818 of 2012 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Rajesh Pande, Standing Counsel, for the petitioners. Mr. B.P. Nautiyal, Senior Advocate, for the respondent through video conferencing. The controversy arose between the parties in pursuance to a deed of conveyance, which was executed on 13.10.2009 between the Bharat Susamachar Samiti and its seller in relation to the property, which was described therein as to be lying in village Bhagwanpur, Nuja Sahapurmusthakam, Tehsil Roorkee, District Haridwar, whereby a total area of 0.8456 hectare was intended to be sold by virtue of the sale deed dated 13.10.2009. It is contended by the respondent purchaser that in accordance with the valuation of the property which was prevailing at the relevant point of time, he had remitted a total stamp duty of Rs. 2,93,000/- with an undertaking by way of representation that in case if there is any deficiency found later in it, he would be making good the deficiency. But, however, the matter travelled upto the revisional stage under Section 56 of the Act, and owing to the undertaking given by the applicant at the

			stage when the proceedings were being taken by the Collector i.e. ADM (Finance), the revisional Court has drawn an exception that since the proceedings drawn under Section 33/40(kha) would not be tenable and rather the proceedings which could have been drawn, rather it should have been under Section 41 of the Stamps Act, for the purposes of determining the adequacy of deficiency of the stamp duty as payable on the deed of conveyance, executed in favour of the present respondent on 13.10.2009. The said observation made by the revisional Court is not a subject matter of challenge by the respondent. Meaning thereby he accedes to the fact that the proceedings ought to have been drawn within the ambit of Section 41 of Stamp Act and no proceedings under Section 33/40(Kha) could have been taken cognizance of. In that view of the reason when the respondent has acceded to, that the proceedings should have been under Section 41 of the Stamps Act, obviously, the inception of the proceedings under Section 41 in pursuance to the impugned revisional Court's order would be a de-novo proceedings to be resorted to by the competent ADM (Finance) about the determination of adequacy of deficiency of the stamp payable on the sale deed dated 13.10.2009. Thus, while disposing of this writ petition, this Court observes, that as soon as the proceedings under Section 41 is
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			revived before the ADM (Finance), in pursuance to the impugned order dated 29.04.2011, passed by the Additional Chief Revenue Commissioner, it goes without saying that all defences as available to the respondent could be open to be agitated before the competent Additional District Magistrate, who would be dealing with the proceedings under Section 41 which is to be initiated in pursuance to the revisional Court's order dated 29.04.2011. Subject to the aforesaid exception that the ADM (Finance) would initiate the proceedings under Section 41 and take all recourses, as permissible under law, and it will be left open for the respondent to raise all his objections qua the proceedings under Section 41 under the given facts and circumstances of the instant case. Subject to above, the writ petition stands disposed of. (Sharad Kumar Sharma, J.) 25.09.2023 Mahinder/
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