

Court No. - 6

Case :- WRIT - C No. - 39726 of 2023

Petitioner :- Iftekar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Girish Chandra Pant,Zafeer Ahmad

Counsel for Respondent :- CSC

Hon'ble Mrs. Manju Rani Chauhan,J.

1. Heard learned counsel for the petitioner and Ms. Anuradha Sundaram, learned Standing Counsel for the State-respondents.

2. This writ petition has been filed by the petitioner with a prayer to quash the order dated 14.12.2022 passed by Commissioner, Moradabad Division, Moradabad as well as order dated 14.03.2022 passed by Collector/District Magistrate, Moradabad and a further prayer to direct the respondents not to realize the amount shown as deficiency of stamp duty and fine from the petitioner.

3. Brief facts of the case are; the petitioner purchased agricultural land from Khasra No.225 area measuring 0.1265 hectares out of total area of 0.5180 hectares paying consideration amount of Rs.17 lakhs by means of registered sale deed dated 09.11.2020. The aforesaid land is situated in Village Mahalakpur Mafi, Tehsil and District Moradabad. The petitioner paid stamp duty in accordance with the rate list and provision of the Act on 01.08.2018 as Rs.14,00,000/- per hectares. The payment of Rs.17,10,000/- was paid for 0.1265 hectares.

4. After three months, i.e. on 02.02.2021, spot inspection was carried out, after which a notice dated 23.03.2021 was given to the petitioner to which he submitted a reply on 25.09.2021, thereafter, by order dated 29.11.2021 the District Magistrate Moradabad called for a report, accordingly the report was submitted on 15.12.2021. On the basis of aforesaid report, the order dated 14.03.2022 has been passed showing the deficiency of stamp duty of Rs.12,75,030/- along with fine of Rs.1,25,000/-. Against the aforesaid order, an appeal was filed, which has been dismissed by order dated 14.12.2022, hence the present petition has been filed.

5. Learned counsel for the petitioner submits that relying upon ex-

parte inspection report, the District Magistrate has proceeded to pass order showing deficiency of stamp duty and also imposing the penalty, which is against the principle of natural justice as well as relevant provisions of the act. He further submits that after the order passed by District Magistrate, he has deposited certain amount. He further submits that while deciding the appeal, the aforesaid fact was ignored, which cannot be sustained in the eyes of law. Though the appellate order has been passed on 14.12.2022, but he has explained the delay in paragraph 29 of the writ petition. Therefore, the orders impugned dated 14.12.2022 and 14.03.2022 are liable to be set aside as the same have been passed without considering the aforesaid facts.

6. Learned Standing Counsel could not dispute the aforesaid fact that the inspection has been carried out behind back of the petitioner.

7. I have very carefully examined the submissions made by the learned counsel for the parties and perused the impugned orders as well as the other materials brought on record.

8. Under such circumstances, the impugned orders dated 14.12.2022 and 14.03.2022 are **set aside**. The matter is remitted to the respondent no.3, i.e. Collector/District Magistrate, Moradabad, who will get fresh spot inspection carried out, after giving proper notice to the petitioner, and pass appropriate order, in accordance with law, by means of a reasoned and speaking order, preferably within a period of two months from the date of production of a certified copy of this order.

9. With the aforesaid observations/directions, the writ petition stands **allowed**, accordingly.

Order Date :- 28.11.2023

Jitendra/-