

Court No. - 6

Case :- WRIT - C No. - 42775 of 2023

Petitioner :- Manish Bansal

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

Counsel for Petitioner :- Jay Prakash Singh

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Manju Rani Chauhan,J.

1. Heard Mr. Jay Prakash Singh, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

2. This writ petition has been filed with a prayer to quash the impugned order dated 30.01.2023 passed by respondent no.2-Deputy Commissioner, Stamp, Agra Division, District-Agra under Section 56(1) of Indian Stamp Act, 1899 Mauja-Kauakkha, Tehsil & District-Agra.

3. Brief facts of the case are that the petitioner's father purchased land bearing Khasra Nos.222A, 222B, 223A & 223B total Rakaba-4.487 Hectare in out of one plot Rakaba -200 sq. gaj by means of sale dated 19.08.2008. On the basis of some report dated 19.08.2008, proceedings under the Stamp Act were initiated and the order dated 06.07.2009 was passed by Additional District Magistrate (Finance and Revenue), District Agra showing deficiency of stamp alongwith penalty and interest. Subsequently, nearly after 11 years, the aforesaid order was challenged by the State-authorities by means of filing revision under Section 56(1) of Indian Stamp Act alongwith delay condonation application under Section 5 of limitation Act on 27.12.2019. The respondent no.2 condoning the delay issued notice to the petitioner on 15.03.2023. The respondent no.2, after observing that the notice was sent to the petitioner by registered post considering it to be deemed service, proceeded to decide the revision by means of the impugned order dated 30.01.2023 and remanded back the matter to be heard afresh by respondent no.3. From the aforesaid, respondent no.3 has passed the order dated 15.03.2023 issuing notice to the petitioner and fixing date for hearing. After coming to know about the aforesaid orders, the present writ petition has been filed challenging the same.

4. Learned counsel for the petitioner submits that the Revisional Authority has proceeded with case in violation of principles of

natural justice and erroneously condoned delay of about 11 years at the back of petitioner. Learned counsel referred Section 56 of Act, 1899 that limitation was provided for 60 days only and, therefore, before dealing with application for condonation of delay of 11 years, Revisional Authority ought to have heard the petitioner, however, no notice was issued to the petitioner on the delay condonation application so filed.

5. He further submits that State has kept silence for about 11 years and suddenly woke up to file revision alongwith delay condonation application wherein delay has been vaguely explained. There was no good and sufficient cause to condone huge delay in filing revision. Learned counsel for the petitioner placing reliance of the judgment of the Co-ordinate Bench of this Court in the case of Ravi Chaudhary vs. State of U.P. and another decided on 15.03.2023 passed in Writ-C No.3757 of 2023, submits that such a belated petition cannot be entertained without issuing notice to the affected parties, i.e. petitioner, on the delay condonation application. Therefore, the impugned order cannot be sustained in the eye of law, hence the same is liable to be set aside.

6. Learned Standing Counsel could not dispute the aforesaid fact.

7. Perusal of the records goes to show that the delay condonation application has been decided without issuing notice to the petitioner. The Revisional Authority has committed an error that without even issuing notice to petitioner by an *ex-parte* order has condoned delay of 11 years, which was against the established principles of natural justice.

8. Though the petitioner was heard on merits by the revisional authority, but the grounds for initiating revisional proceedings after a lapse of so many years does not exist. Therefore, I do not find any reason to enhance deficiency of stamp duty, that too, after 11 years.

9. In view of the above, the impugned order 30.01.2023 is hereby **set aside**.

10. Accordingly, the writ petition is **allowed**.

Order Date :- 12.12.2023

Kalp Nath Singh