

Court No. - 17

Case :- WRIT - C No. - 10148 of 2023

Petitioner :- Smt. Malti Devi

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Stamp And Registration Lko. And 3 Others

Counsel for Petitioner :- Rajesh Kumar Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

1. Heard Sri Rajesh Kumar Shukla, learned counsel for the petitioner as well as learned Standing counsel appearing for the respondents.

2. Be means of the present writ petition the petitioner has challenged the order dated 23.3.2022 passed by Prescribed Authority under Section 47 A of Indian Stamps Act, 1899 as well as order dated 20.9.2023 passed by Deputy Commissioner(Stamp), Ayodhya Division, Ayodhya dismissing the appeal preferred by the petitioner against the order of the Prescribed Authority affirming the said order.

3. It has been submitted by learned counsel for the petitioner that the petitioner had purchased a plot having an area of 25 x 90 sq. ft. from gata No.290-B area 0.4270 hectare by means of sale deed executed on 8.6.2020 after paying adequate consideration for the same. On the said instrument full stamp duty as per law was paid by the petitioner. It is stated that within 18 days of the execution of the said sale deed inspection was carried out and report was submitted on 26.6.2020 by Deputy Registrar (Stamps) to the competent authority indicating that the said land is not agricultural land rather it is commercial and accordingly insufficient stamp duty has been paid on the said instrument and consequently proposal was issued for initiating proceedings under Section 47 A of Indian Stamps Act, 1899 and accordingly notice was given to the petitioner. The petitioner on receipt of the said notice had put in appearance through counsel but it seems that no objection were filed before the Prescribed Authority.

4. The Prescribed Authority means of its order dated 23.3.2022 held that over a portion of the said land commercial activities are being carried out in the immediate vicinity of the said land.

He further recorded that vakalatnama was filed on behalf of the petitioner on 9.10.2020 but no objection was filed against the notice by the petitioner nor did anyone appear and argued the said matter on behalf of the petitioner and consequently relying upon the report submitted by Deputy Registrar (Stamps) proceedings were concluded and deficient stamp duty was affixed of an amount of Rs.1,54,400/-. The petitioner was further put to 1.5 percent interest per month on the said amount apart from penalty. It was further ordered that in case the petitioner fails to pay the said amount the same may be recovered as arrears of land revenue.

5. The petitioner being aggrieved of the said order had approached Deputy Commissioner (Stamps) by filing an appeal. The appellate authority also duly considered various objections raised by the petitioner and accordingly he has not accepted the claim of the petitioner that he was unable to appear before the Prescribed Authority. He had noticed that the petitioner was duly represented by her counsel Sri Bal Govind Mishra who had filed his vakalatnama but he did not appear subsequently. It is stated that even at the time when the spot inspection was carried out one Chandra Dev Upadhyay was present on his behalf and consequently it appears that the said inspection was not ex-parte. He has further recorded the fact that when inspection was carried out within 18 days from the date of execution of the said sale deed and construction was found on the said plot and within 18 days it is not possible for having the construction raised from the ground level. It was found that the petitioner had deliberately shown the said land as agricultural but said land was not agricultural but commercial and consequently he has also upheld the order of the Prescribed Authority.

6. Learned counsel for the petitioner has submitted that the notice was not duly served upon him and the proceedings before the Prescribed Authority were conducted ex-parte. It is stated that in para 7 of the appeal filed by the petitioner she has clearly stated that she appeared before the Prescribed Authority and had moved an application on 9.10.2020. From the statement made by the petitioner herself it is clear that she was fully aware of the proceedings and appearance was also put in by her but she deliberately chose not to appear in the same and, hence, the same were conducted and concluded on the basis of the spot inspection conducted by Sub Registrar (Stamps). From the inspection report it is further clear that on the said plot purchased by the petitioner construction has been raised and commercial activities were going on and consequently the said plot has been held to be commercial plot on which appropriate stamp duty has been assessed. Even in the present petition it is

noticed that there is sufficient material where the Prescribed Authority as well as the appellate authority had concluded that commercial activities were carried out on the said spot and also this Court is satisfied that the petitioner was fully aware of the proceedings and did not raise any objection before the Prescribed Authority. This Court does not find any infirmity in the impugned order. In light of the above, no ground is made out for interference.

7. In light of the above, the writ petition is devoid of merits and is accordingly **dismissed**.

8. It is made clear that deficiency in stamps as assessed by the Prescribed Authority may be recovered from the petitioner but in case any amount has been paid by him in compliance of the said order, the same may be adjusted while making the said recovery.

(Alok Mathur, J.)

Order Date :- 18.11.2023
RKM.