

Court No. - 10

Case :- WRIT - C No. - 29712 of 2023

Petitioner :- Dr. Ranjana Bansal

Respondent :- Commissioner Agra And Another

Counsel for Petitioner :- Prakhar Saran Srivastava, Tarun Agrawal

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal, J.

1. Heard Sri Prakhar Saran Srivastava, learned counsel for the petitioner and Sri Siddhart Singh, learned Standing Counsel for the State-respondents.

2. By means of instant writ petition, the petitioner has assailed the order dated 15.05.2023 passed by the respondent no.1 and order dated 04.03.2020 passed by the respondent no.2.

3. Learned counsel for the petitioner submits that vide registered sale deed dated 22.04.2015, the petitioner purchased an agricultural land, measuring 0.89875 hectares after paying the requisite stamp duty in accordance with the prevalent circle rate. Thereafter, on the basis of an ex-parte report of the Sub-registrar (III), Agra, proceedings under the provisions of Indian Stamp Act were initiated against the petitioner and a notice was issued to him to which a detailed reply/objection was filed by the petitioner, but being not satisfied with the same, the impugned order was passed by the respondent no.2, holding the deficiency of stamp duty. Being aggrieved by the said order, the petitioner preferred a revision, which was also dismissed by the impugned order dated 15.05.2023 without considering the material available on record.

4. He further submits that the allegation levelled against the petitioner is that some part of the land in question was converted to be non-agricultural land in the year 2008 and thereafter again, it was got declared as an agricultural land with a view to avoid legitimate stamp duty payable to the State Government. He further submits that the said part of the land in question was again declared as an agricultural land in 2011 itself, whereas the petitioner has purchased the land in question in year 2015 and therefore, the said proceedings initiated against the petitioner is *per se* illegal.

5. He further submits that at the time of execution of sale deed, the land was being used as an agricultural land and thereafter as well. He further submits that the land in question has not been declared as an abadi land under Section 143 of the UPZA

& LR Act, which entitles the respondents-State to treat the land as non-agricultural land.

6. In support of his submission, he has placed reliance upon the judgment of this Court passed in **Writ- C No. 19644 of 2016 (Raj Kumar Vs. State of U.P. and 2 others)**

7. *Per contra*, learned Additional Chief Standing Counsel supports the impugned orders.

8. After hearing the parties, the Court has perused the record.

9. The record shows that the land in question was purchased as an agricultural land after paying the requisite stamp duty thereof. Thereafter, on the basis of an ex-parte report submitted by the authorities, proceedings under the provisions of Indian Stamp Act were initiated against the petitioner to which a detailed reply/objection was filed, but the authorities have failed to consider the material available on record in a proper prospects such the land in question was purchased by the petitioner is entirely different than that of purchased by the seller in the year 2004. It is correct to say that the land which was purchased in the year 2004 was 1/4th land and thereafter by present sale deed, from the same plot No.72, balanced 1/4th land, measuring 0.89875 hectares, has been purchased by the petitioner. In the sale deed, the dimensions have been mentioned at internal page no.5, which was read as under:-

"पूरव - गाटा संख्या-73

पश्चिम - गाटा संख्या-67

उत्तर - गाटा संख्या-72 का जुज भाग श्री सुरेश चन्द

दक्षिण - गाटा संख्या-72 का जुज भाग द्वितीयपक्ष क्रेता "

10. The aforesaid dimension of the land in question clearly shows that the land in question is partly adjacent to plot no. 72 from one side i.e. South and from North, plot in question is situated.

11. Further, so far as the East and West is concerned, the plot in question is adjacent to plot nos. 73 & 67.

12. The dimension of the plot has not been disputed at any stage by the State, but while passing the impugned order, the dimensions of various other plots were taken into consideration such as plot nos. 68, 69 & 74 alleging that these plots were also declared as non-agricultural land in the year 2008, but thereafter, the same was declared to be an agricultural land again in the year 2011. So far as other adjacent plots as described in the sale deed is concerned, the same cannot be taken into consideration as an exemplar against the petitioner.

13. The material has been brought on record to show that the land in question was used for non-agricultural purposes. However, only on the statement of some Pradhanpati recorded wherein it has been alleged that no agricultural activities were being undertaken over the plot in question, no adverse inference can be drawn against the petitioner that it is not an agricultural land.

14. Further, no material has been brought on record to show that the land in question has been declared as an abadi land under Section 143 of UPZA & LR Act and therefore, until and unless the same is converted as an abadi land, no adverse inference could have been drawn against the petitioner.

15. The issue in hand is no longer *res-integra* as this Court in the case of **Raj Kumar (supra)** (supra) in para nos. 16 & 20 has held as under:-

"16. In view of the definition of land contained in the law relating to land tenures, i.e. U.P. Zamindari Abolition & Land Reforms Act, 1950, the fact that the land was not declared as Abadi under section 143 of U.P. Zamindari Abolition & Land Reforms Act, 1950 as explained under section 3(14) of the said Act, in itself becomes a relevant factor for determining the nature of land that was subject matter of instrument. This Court in various authorities has held that when the land is purchased for agricultural purposes and declaration under section 143 of the U.P. Z.A. & L.R. Act, 1950 has not been made and merely because the land is situated in close vicinity of the non-agricultural land, the same would not lose its character as the agricultural land for the purposes of levy of stamp duty. Reference can be made to few authorities of this Court in the case of Aniruddha Kumar and Ashwini Kumar vs Chief Controlling Revenue Authority, U.P. Allahabad and another, reported in 2000 (3) AWC 2587; Smt. Sushila Verma vs State of U.P. and others reported in 2006 (2) AWC 1492 and Sudama vs Chief Controlling Authority and others, reported in 2013 (4) AWC 3571.

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20. Insofar as the imposing four times penalty is concerned, it is well settled that unless "mens rea" is established on the part of the purchaser, no penalty can be imposed, even if the provision of penalty is a creation of statute. Regarding imposition of penalty, reference can be made to a judgment of this Court in the case of Smt. Asha Kapoor vs Additional Collector (Finance & Revenue), Ghaziabad and others, reported in 2008 (72) ALR 125, where this Court has held that penalty can be imposed if there is an attempt to evade the stamp duty and penalty presupposes culpability and an intention to conceal or to play fraud with the authorities. I do not find any finding on record, whereunder any opinion has been formed by the respondent-Authorities that the petitioner defrauded the Government having mens rea at the time of getting the sale deed executed. Even the annexures to the writ petition disclosing the nature of land have not been disputed by the State in the counter affidavit. I also find that the sale deed in question conforms to the statutory requirements of disclosure of necessary particulars as per rule 3(1)(a) of the Rules of 1997. Therefore, imposition of penalty is also contrary to law

of the land."

16. In view of the above facts as stated as well as law laid down in the aforesaid judgment, the impugned orders cannot be sustained in the eyes of law and the same are hereby quashed.

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

18. Any amount deposited by the petitioner pursuant to the impugned orders, shall be refunded to him along with interest @ 4% per annum, within a month from the date of production of certified copy of this order.

Order Date :- 3.4.2025

Pravesh Mishra