

Manoj Saxena vs State Of U.P. And 4 Others on 1 April, 2025

Author: Piyush Agrawal

Bench: Piyush Agrawal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44578

Court No. - 10

Case :- WRIT - C No. - 7925 of 2018

Petitioner :- Manoj Saxena

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Vinay Kumar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal,J.

1. Heard Sri Vinay Kumar Mishra, learned counsel for the petitioner and Sri A.C. Mishra, learned Additional Chief Standing Counsel for the State-respondents.

2. By means of instant writ petition, the petitioner has assailed the order dated 25.01.2018 passed by the Chief Controller Revenue Authority/Deputy Commissioner (Stamp), Agra Division, Agra (respondent no.2) as well as the order dated 31.08.2017 passed by Assistant Commissioner (Stamp)/Collector (Stamp) (respondent no.3).

3. Learned counsel for the petitioner submits that vide registered sale deed dated 20.01.2012, the petitioner purchased an agricultural land after paying the requisite stamp duty in accordance with the prevalent circle rate. Thereafter, ex parte spot inspection report was prepared and on the basis of

the same, proceedings under the provisions of Indian Stamp Act were initiated and a notice was issued to the petitioner to which a detailed reply/objection was filed by the petitioner, specifically stating therein that the land in question has not been declared as an abadi land under the provision of Section 143 of UPZA & LR Act. In the meantime, an undated subsequent report was prepared by the Sub-Registrar, Manth, District- Mathura, treating the land to be an abadi land and on the basis of said allegations so made in the subsequent report, an impugned order dated 31.08.2017 was passed, holding the deficiency of stamp duty along with interest and penalty. Against the said order, revision was preferred, which has been dismissed vide order dated 18.09.2017. Hence, this writ petition.

4. Learned counsel for the petitioner submits that after four years from the date of execution of the sale deed, subsequent survey was conducted, on the basis of which, the impugned order has been passed. He further submits that however, the specific ground was taken in the reply/objection that the land in question has not been declared as an abadi land under the provision of Section 143 UPZA & LR Act, no weighthage has been given to the same and the impugned order has been passed.

5. He next submits that after four years for the date of execution of the sale deed, the proceedings initiated under the provision of Indian Stamp Act are bad.

6. Per contra, learned ACSC supports the impugned orders.

7. After hearing learned counsel for the parties, the Court has perused the record.

8. It is not in dispute that the petitioner purchased the land in question as an agricultural land after paying the requisite stamp duty, but on the basis of subsequent survey report, the proceedings were initiated against the petitioner. The first show cause notice issued to the petitioner was specifically replied by stating therein that the land in question has not been declared as an abadi land under the provision of Section 143 of UPZA & LR Act. Once the land in question has not been declared as an abadi land under the provision of Section 143 of UPZA & LR Act, the proceedings initiated against the petitioner cannot be said to be legal.

9. The issue in hand is no longer res-integra as this Court in Writ- C No. 19644 of 2016 (Raj Kumar Vs. State of U.P. and 2 others) in no. 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."

10. In view of the aforesaid facts & circumstances of the case as well as the law laid down by this Court, the impugned orders cannot be sustained in the eyes of law. The same are hereby quashed.

11. The writ petition succeeds and is allowed.

12. The authority concerned is directed to refund any amount deposited by the petitioner pursuant to the impugned orders, within a period of one month from the date of production of a certified copy of this order.

Order Date :- 1.4.2025 Pravesh Mishra