

PETITIONER:
SMT. PRAKASHWATI

Vs.

RESPONDENT:
CHIEF CONTROLLING REVENUE AUTHORITY, BOARD OF REVENUE, U.P. A

DATE OF JUDGMENT: 09/07/1996

BENCH:
MADAN MOHAN PUNCHHI, SUJATA V. MANOHAR

ACT:

HEADNOTE:

JUDGMENT:
THE 9TH DAY OF JULY, 1996

Present:

Hon'ble Mr. Justice M.M. Punchhi
Hon'ble Mrs. Justice Sujata V. Manohar
Aseem Mehtrotra, Adv. for P.K. Jain, Adv. for the appellant
A.K. Srivastava, Adv. for the Respondents.

J U D G E M E N T

The following Judgment of the court was delivered;
Punchhi, J.

A learned Single Judge of the High Court of Allahabad dismissed the writ petition of the appellant, leaving the orders dated September 13, 1994 passed by Chief Controlling Revenue Authority, Board of Revenue, U.P. uninterfered with.

On May 12, 1992, the appellant, for a sum of Rs. 70,000/- purchased a house in Saharanpur, a town in the State of Uttar Pradesh, the plot of which measured 66.84 sq. yards and the covered area 56.84 sq. yards. It had two rooms and a living room, besides other necessities such as toilet, bathroom and a kitchen. Facilities of water and electricity were also available. It was situated in a locality close to a decent locally going by the name Samrat Vikram Colony. According to the registering Authority the stamp paid on the minimum consideration of Rs. 71,500/- determinable under Rule 341 of the Stamp Rules was inadequate and under - paid. Thereupon, the Assistant Commissioner, Stamps became seisen of the matter under Section 47-A of the stamp Act and vide his order dated October 25, 1993 determined the value of the house at Rs. 4,70,166.80 paise holding that stamp duty to the extent of Rs. 57,852.50 paise had been evaded, which he ordered the appellant to pay, as well as to suffer payment of penalty to pay, as well as to suffer payment of penalty to the extent of Rs. 12,147.50 paise. On challenging this order in revision before the Chief Controlling Revenue Authority the first respondent, the market value of the house was reduced to Rs. 2.5 lacs and on the basis of this altered valuation, deficiency in stamp duty was worked out at Rs. 25,880/- setting aside the penalty. This order was put to challenge before the High Court unsuccessfully.

Before the High Court as also here, it was urged on behalf of the appellant that since sufficient guidelines have not been provided in section 47-A of the Act, the provision was unworkable. The High Court repelled the contention holding that a procedure was prescribed under sub-section (3) and (4) of Section 47-A which requires to be adopted for determining market value of the property which has not been truly set-forth in the document in question. The manner of the inquiry, as required to be held, is appropriately given therein. According to the High Court the procedure postulated was observed in the instant case and nothing further was required to be done. Rule 351 of the U.P. Stamp Rule 1942 providing for determination of the minimum market value, also subserving the purpose of Section 47-A of the Act was explained to say that the minimum market value determinable was not the end of the matter and value could be determined at a figure higher than that if warranted.

We have carefully examined the orders of the first respondent. Noticeably the house is built on a very small area i.e. 68.84 sq. yards only in a town which is not a metropolis. Presumably the smallness of the area would not suggest the same by itself to be a costly property or be situated in a prestigious or posh locality, where the upper classes would rub shoulders to acquire it. Secondly, its being situated in an area which is close to Samrat Vikram Colony, said to be a decent locality, where people of high income group reside, does not by itself make it a part thereof. We are doubtful whether the said factum of closeness by itself would cast any reflection on the price of property in question. Seemingly, influenced by the factor of the close proximity of Samrat Vikram Colony, the Assistant Commissioner, Stamps, for one does not know how, determined the monthly rental value of the property at Rs. 1500/- per mensem and worked out the price of the house on that basis. Despite that the Tehsildar at a subsequent stage reported that the annual rental value of the house was Rs. 1200/- per annum, whereas for house tax purpose it was recorded as Rs. 840/- per annum. The first respondent ignoring the same worked out the monthly rental of the property at Rs. 830/- per mensem and its value at Rs. 2.5 lacs, ostensibly on the basis that the average cost of construction of building in the year 1992 was about Rs. 400/- per sq. yards, inclusive of the land cost. This figure too was arrived at, one knows not from where without determining the age of the building, the quality of construction and citing appropriate instances. The approach of the authorities, to say the least, was highly vain, casual and unsatisfactory and dehors any constructive material on the basis of which one could have said that the decision arrived at by the first respondent was fair and reasonable. We cannot approve of such an assumptive posture of the respondent in treating the appellant as an evader. We must, therefore, upset the impugned order of the first respondent and the proceedings for the supposed deficient payment of stamp duty, but confining the end result to the facts and circumstances of the instant case, when the valuation fixed is at least not below the minimum prescribed under Section 341 of the Stamp Rules.

For the fore-going reasons, this appeal is allowed with costs.