

**State of Rajasthan Vs. Sumer Chand**

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**Court :** Rajasthan

**Decided On :** Feb-15-1982

**Reported in :** 1982WLN(UC)90

**Judge :** S.K. Mal Lodha, J.

**Appeal No. :** S.B. Civil Revision No. 46 of 1981

**Appellant :** State of Rajasthan

**Respondent :** Sumer Chand

**Disposition :** Petition dismissed

**Judgement :**

**S.K. Mal Lodha, J.**

1. This revision petition under Section 115, C.P.C. is directed against the appellate order dated July 18, 1980 of the District Judge, Jalore, passed under Section 47A(3) of the Stamp Act as inserted in Rajasthan.

2. Non-petitioner No. 1 Nemichand sold his house in Bhinmal to non-petitioner No. 1 Sumerchand alias Nenaji in the year 1970. The sale deed was presented for registration on October 9, 1970 before the Tehsildar. It was recited in the sale-deed that the house has been sold for Rs. 18,000/-. One Gajraj filed a complaint supported by his affidavit before the Tehsildar stating that the house has been sold

by non-petitioner No. 2 Nemichand to non-petitioner No. 1 Sumerchand alias Nenaji for Rs. 35,000/- and not Rs. 18,000/-. The Sale-deed was registered by the Tehsildar and he sent it to determine the consideration and to assess and recover the duty in conformity with such determination. The Collector, Jalore, by his order dated March 31, 1979, directed that the stamp duty and registration fees be recovered from the party liable to pay the same in accordance with Rs. 35,000/- which have been determined by him and, thereafter, the document may be delivered. An op seal under Section 47A(3) of the aforesaid Act was filed and the learned District Judge, Jalore, by his order dated July 18, 1981, accepted the appeal and set aside the order of the Collector, Jalore.

3. Aggrieved, the State of Rajasthan has filed this revision petition.

4. I have heard Mr. D.S. Shishodia, learned Government Advocate and have carefully perused the order under revision.

5. Material portion of Section 47A, as inserted in Rajasthan, is as follows:

47A. Instruments under-valued, how to be valued.--(1) Where, in the case of any instrument relating to any immovable property chargeable with ad ad valorem duty on the value of the property, or the consideration, as set forth in the instrument the registering officer has, while registering the instrument, reasons to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument he may, after registering such instrument, send it, in original to the Collector to determine the value or consideration and to assess and charge the duty in conformity with such determination together with a penalty not exceeding ten times the deficient stamp duty chargeable and surcharge, if any, payable on such instrument.

On receipt of the instrument under Sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an inquiry in the prescribed manner determine the value or consideration and the duty including penalty and surcharge if any payable thereon as if that were the value of consideration set forth in the instrument, and if the amongst of duty including penalty and surcharged if any as determined exceeds the amount of duly including

penalty and surcharge if any already paid, the deficient amount shall be payable by the persons liable to pay the duty including penalty and surcharge if any.

(2-A) The Collector may suo moto, call for and examine any instrument not referred to him under sub-section (1), for the purpose of satisfying himself as to the correctness of its value or the consideration, as the case may be, and if he has reason to believe that the value of the consideration has not been truly set forth in the instrument, he may determine in accordance with the procedure provided in sub-section (2), the value or the consideration and the amount of stamp duty and surcharge levied, if any, together with a penalty not exceeding ten times the deficient stamp duty, chargeable on it, which shall be payable by the person liable to pay the stamp duty, surcharge and penalty.

(2-B) ... ..

(2-C) ... ..

(3) Any person aggrieved by an order of the Collector under subsection (2) or under subsection (2-A) may within thirty days, from the date of the order prefer an appeal before the Court and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules made under this Act.

(4) ... ..

#### Explanation

For the purpose of sub-section (3), 'Court' means a principal Civil Court of original jurisdiction, and includes a Court which the State Government may, by notification in the Official Gazette, appoint within any specified local limits to perform the function of the Court under that Sub-section.

I am not satisfied that in view of the aforesaid provision, any jurisdictional error was committed by the learned District Judge in passing the order dated July 18, 1980.

6. No ground for interference with the order under revision is made out.

7. The revision petition is dismissed summarily.

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