

Santosh Kumar Singh Vs. State of U.P. and Others

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Court : Allahabad

Decided On : May-20-2011

Judge : Pankaj Mithal

Appeal No. : Civil Misc. Writ Petition No. 47261 of 2008

Appellant : Santosh Kumar Singh

Respondent : State of U.P. and Others

Judgement :

Pankaj Mithal, J.

1. Petitioner had purchased land measuring 84 sq. meter from one Harjeet Singh, which was part of Aaraji Nos. 656/1 m. and 657/1 m. On the said sale deed proper stamp duty was paid.

2. Subsequently, it transpired that in the aforesaid sale deed though total area purchased was correctly mentioned as 84 sq. meters but instead of mentioning the Aaraji Nos. 656/1 m. and 657/1 m. only additional Aaraji numbers 658/1 m. and 659/1 m. were also mentioned.

3. The vendor Harjeet Singh was not the owner of land in the aforesaid two additional Arajis and as such was not competent to even transfer the same by the aforesaid sale deed. Accordingly, a correction deed was executed and was presented for registration on 27.12.06 for deleting the numbers of additional

Aarajis from the aforesaid sale deed.

4. The Additional Collector vide order dated 5.10.07 treated the aforesaid correction deed (Titimmanama) to be a fresh sale deed and determined the deficiency. The aforesaid order has been upheld in revision vide order dated 14.8.08.

5. Challenging the aforesaid two orders the contention of learned counsel for the petitioner is that by the aforesaid correction deed no additional land had been transferred. The only thing claimed is the deletion of the numbers of the two of the Aarajies which have wrongly been mentioned in the sale deed.

6. A careful reading of the correction deed reveals that it only seeks to delete the numbers of the two additional Aarajis mentioned in the sale deed, meaning thereby that the sale is to be confined in respect of 84 sq. meters of land of Aarajis No. 656/1 m. and 657/1 m. only. Petitioner has already paid stamp duty on the market value of the said land at the time of registration of the sale deed.

7. Therefore, no further stamp duty on the transfer of the aforesaid land is payable. There is nothing on record to indicate that by the correction deed in question any additional land is being transferred or rights in respect of any new land are being created.

8. In view of aforesaid facts and circumstances, the authorities below were not legally justified in determining deficiency in respect of the correction deed by treating it to be a fresh sale of land.

9. Accordingly, impugned orders dated 5.10.07 passed by Additional Collector (Finance and Revenue) Allahabad in Stamp Case No.120/07 and the revisional order dated 14.8.08 passed by the Additional Commissioner (Administration) Allahabad Region, Allahabad in Stamp Revision No.2/8 are quashed and a writ of certiorari is directed to be issued accordingly.

10. Petition allowed. No order as to costs.