

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.29 OF 2009

(Arising out of S.L.P. (C) No.13325 of 2007)

Urmila Devi

...Appellant(s)

Versus

Commissioner, Varanasi & Ors.

...Respondent(s)

O R D E R

Leave granted.

The District Magistrate, Varanasi, after issuing show cause notice to the petitioner proposing recovery of deficit stamp and levy of penalty with interest and considering appellant's objections, passed order dated 30th December, 2004 under Section 47A of the Indian Stamp Act, whereby he directed the appellant to pay deficit stamp fee of Rs.1,17,000/- on the basis of deemed valuation of the land and structure at the rate of Rs.140/- per sq. ft. He also levied penalty of Rs.1,17,000/- on the appellant apart from interest at the rate of 1.5 per cent on the amount of deficit stamp. That order was confirmed by the Divisional Commissioner, Varanasi who dismissed the appeal preferred by the petitioner. Her writ petition was also dismissed by the High Court. Hence, this appeal by special leave.

We have heard learned counsel for the parties and perused the record. Neither from the orders of the District Magistrate and Commissioner, Varanasi nor from the report of the Sub Registrar which constituted foundation of the action

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initiated by the District Magistrate, it is possible to discern the basis for fixing the value of the land and structure at the rate of Rs.140 per sq. ft. Learned counsel for the respondents could not draw our attention to any other material from which the court can find out the criteria for fixing the value of the property at Rs.140 per sq. ft. Therefore, it must be held that the order of the District Magistrate suffers from arbitrariness and is liable to be set aside on that ground. Consequently, the orders passed in appeal and by the High Court are also liable to be set aside.

Accordingly, the appeal is allowed, impugned orders are set aside and the matter is remitted to the District Magistrate with the direction to pass appropriate order after giving opportunity to the parties to adduce evidence on the issue of valuation of the property.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

New Delhi,
January 07, 2009.