IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12622 of 1995 (O&M)
Date of decision: 12.01.2015

1.
Atam Praksh Pasricha

... Petitioner

versus

The State of Haryana and others

.... Respondents

CWP No. 12623 of 1995

2.
Krishna Rani

... Petitioner

versus

The State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Ashish Aggarwal, Advocate, for the petitioner.
Mr. Sudeep Mahajan, Addl. Advocate General, Haryana.

K.Kannan, J.

This order will dispose of two petitions, namely, CWP No. 12622 of 1995 and 12623 of 1995. Both the cases are connected matters and address the same issue. The facts are brought out from CWP No. 12622 of 1995.

The writ petition challenges the order of the authorities constituted under the Indian Stamp Act, 1899, (hereinafter referred to as the 'Act'), seeking for collection of alleged deficit of stamp duty paid for registration of a sale deed that was made on 01.02.1988. The precipitate action for recovery came after the initial notice dated 08.03.1995 issued to the petitioner. The notice purports to state that ₹17,110/- had been determined as the deficit payable under the Indian

Stamp (Haryana Amendment) Act, 1973 through a notice under Rule 5 (1). The justification for the notice is that the petitioner had deliberately undervalued the document and they had come by information that in respect of the very same property, agreement of sale had been executed in favour of the petitioner's brother on 01.10.1987 for ₹ 1,65,000/- and within a few months self serving document was made on 21.08.1988 in favour of the petitioner slashing down the consideration for ₹ 47,000/- and bringing about a sale deed on 01.02.1988 for ₹ 47,000. This according to the State is a clear case of evasion of stamp duty and, therefore, the limitation under Section 47 A of the Act would not be applicable.

The argument is fallacious. Even in the notice issued and the stamp duty which was to be collected in Form No.7 (Annexure P3), it would be clear that the stamp duty of ₹ 17, 110/- was being sought to be recovered under Section 47 A of the Act only. Whatever be the cause, either of deceit or by innocent representation or by any process that resulted in undervaluation of stamp duty, there can be no escape from the situation that proceeding for recovery has to be done within a particular time which the law prescribes. The Registering Officer that registers the document ought to guard himself against any undervaluation and a system of periodic publication of the circle rates are only to serve as constant reminders that no document is brought for registration less than a value stated in the circle rates. If even the circle rates are not sufficient guidance, as it might happen in some situation that a particular mode of the user of the property and the contract at competitive rates could have fetched more than the circle rates or any other circumstance that makes available the data that the consideration cited in the document which was used for registration did not reflect the correct market price, the Collector has the power to act *suo motu* under Section 47 A (3). It is the only source of power to demand higher duty and there exists no other power for Registering Officer to demand higher duty than what is collected at the time of registration. If the information had not been given to the State that the property was more valuable that what was stated in the document, within a period of three years, then there is no scope for recovery under any other head under the Act. The authority exercised to seek for payment of alleged deficit is incompetent, having been issued more than seven years from the date of registration of the sale deed. The impugned notice is quashed and the writ petition is allowed with costs determined as ₹ 5,000/- against the State.

Writ petitions are disposed, of with above observations.

(K.KANNAN)
JUDGE

12 .01.2015
Kumud