

In the High Court of Punjab and Haryana at Chandigarh.

CWP No.4855 of 2010

Decided on 05.10.2015

Aman Sethi

--Petitioner

Vs.

Commissioner, Gurgaon Division, Gurgaon
and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Sanjay Vij, Advocate, for the petitioner

Mr. P.P.Chahar, DAG, Haryana

Rakesh Kumar Jain,J: (Oral)

The petitioner has challenged the validity of the order dated 31.3.2006 passed by the District Revenue Officer-cum- Collector, Faridabad and the order dated 07.11.2008 passed by the Commissioner, Gurgaon Division, Gurgaon.

Learned counsel for the petitioner has allegedly purchased Industrial Plot No.2 measuring 24974 square yard (5 Kanals 16 Marlas) situated in the Industrial Area, New Township, Faridabad from M/s. Delhi Pulp Corporation, Faridabad in the year 2004, vide registered sale deed No.

6837 dated 15.1.2004, for a consideration of ₹15,00,000/- on which stamp duty of ₹2,32,500/- was also paid.

Respondent No.2. wrote a letter No.520/RC dated 15.1.2004 to the Collector, Faridabad alleging that the sale deed was under valued as the market value of the property sold was ₹11,48,80,500/- on which the buyer had to pay stamp duty of ₹1,78, 06, 480/-, whereas the stamp duty has been affixed to the tune of ₹2,32,500/-.

The Collector-respondent No.2 was, thus, asked to recover ₹1,90,59,930/- in terms of Section 47-A of the Indian Stamp Act, 1899, who issued a notice to the petitioner and ultimately passed the order dated 31.3.2006, concluding that the petitioner had to pay deficient duty of ₹1,90,59,930/-. The decision was taken by respondent No.2, while referring to Vasika No. 14013 dated 14.12.2005 in respect of an area of about 5769 square yards which was registered at ₹3,65,00,171/- i.e. @ ₹4800/- per square yard and Vasika No.15549 dated 06.1.2006 which was registered at ₹7,20,00, 000/- i.e. @ ₹4800/- per square yard. Both the plots were situated on Mathura road, leaving about 200-300 square fit of green belt area which has been got registered at per Collector's rate.

Aggrieved against the said order, the petitioner filed statutory appeal before the Divisional Commissioner, Gurgaon, but failed. Hence, the present writ petition has been filed.

After notice was issued, the respondents have put in appearance. On 17.8.2015, the State Counsel was directed by this Court to produce the record of this case including the letter written by the Sub Registrar, Faridabad to the Collector, Faridabad NO.520/RC dated 15.1.2004 which has reference in the opening part of the order (Annexure

P1).

Respondent No.3 is present in Court and has also produced the original record containing the said letter bearing No.520/RC dated 15.1.2004. He has fairly admitted that it has not been mentioned in the said letter as to whether the land in dispute is commercial or plot/shop, meaning thereby, the status of the land was not specifically mentioned

Learned counsel for the petitioner has submitted that status of the land has not been mentioned specifically, therefore, it was only presumed by respondent No.2 while taking a decision against the petitioner accepting it to be a commercial property for applying to it, rate of those sale deeds, which were registered later on.

I have heard learned counsel for the parties and after examining the available record, am of the considered opinion that there is a patent error in the proceedings initiated by respondent No.3 who is required at least to bring to the notice of the Collector/competent authority about the nature of the land in question.

The letter dated 15.1.2004 is on a printed performa in which figures have been added without striking of the irrelevant portion, as a result thereof, respondent No.2. has believed that the property in question is commercial in nature.

Thus, in view of the totality of the facts and circumstances of the case, the present petition is hereby allowed and the orders passed by respondent Nos.1 and 2 are quashed. The case is remanded back to respondent No.3 to initiate fresh proceedings specifically pointing out the nature of the land in question for recovery of the deficiency in the stamp duty, if any.

Needless to mention that respondent No.3 shall initiate action within one month from the date of passing of this order.

05.10.2015
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(Rakesh Kumar Jain)
Judge