

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 26825 of 2014 (O&M)
Date of Decision : 01.10.2015**

M/s Palace Infratech Pvt. Ltd.

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. M.L. Saggar, Senior Advocate with
Mr. Chander Shekhar, Advocate for the petitioner.

Mr. S.S. Chandumajra, Addl. Advocate General, Punjab.

Paramjeet Singh, J.(Oral)

Learned counsel for the parties state that instead of deciding the application, main case be taken up for final hearing.

With the consent of the learned counsel for the parties, CWP No. 26825 of 2014 is taken up for hearing.

Reply filed on behalf of respondents No. 1 to 4 is taken on record.

Learned counsel for the parties are ad-idem that the controversy involved in this case is fully covered by the judgment of a Co-ordinate Bench of this Court dated 22.09.2015 passed in CWP No. 26931 of 2014 titled as '**M/s Palace Infratech Pvt. Ltd. Vs. State of Punjab and others**'. In the aforesaid judgment, it has been held as under :-

“The question in this case is 'as to whether the registration and stamp duty has to be paid on the future use of the property purchased by the petitioner.'?”

The land in question was purchased by the petitioner vide sale deed No. 63 dated 04.04.2013 and at that time it was recorded in the revenue record as Khalis chahi. The case set up by the petitioner is that the land in question is situated on the back side of the land for which it has already taken CLU. Insofar as the instructions of the State Government are concerned that the land falling on the main road/highway has to be assessed at a higher rate, has already been withdrawn on 03.04.2014, as recorded in the order passed in the aforesaid writ petition by the Division Bench.

*In the case of **State of UP and others(supra)**, similar issue was involved because in that case property in dispute was sold/purchased when it was being used for residential purpose but later on it was put to commercial use and as a result thereof, the purchaser of the said property was asked to pay more Stamp duty and Registration charges. The Supreme Court has held that the nature/status of the land should be seen at the time of its purchase and not its use in future.*

In view of the law laid down by the Supreme Court, which is squarely applicable to the present case, the impugned orders are found to be patently illegal. The present writ petition is, thus, allowed and the impugned orders are set-aside.

Any amount deposited by the petitioner under the order of this Court shall be refunded to the petitioner.”

The present writ petition is disposed of in the same terms.

October 01, 2015.
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(PARAMJEET SINGH)
JUDGE