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

**Date of Decision : 09.02.2015**

**1. CWP No.8557 of 2013**

G.S. Obrai ........ **Petitioner**

**versus**

State of Punjab and others ....... **Respondents**

**2. CWP No.8562 of 2013**

Surjit Singh ........ **Petitioner**

**versus**

State of Punjab and others ....... **Respondents**

**3. CWP No.8563 of 2013**

Neelam Jain ........ **Petitioner**

**versus**

State of Punjab and others ....... **Respondents**

**4. CWP No.8564 of 2013**

Harpreet Kaur and another ........ **Petitioners**

**versus**

State of Punjab and others ....... **Respondents**

**5. CWP No.8565 of 2013**

Gurmail Kaur ........ **Petitioner**

**versus**

State of Punjab and others ....... **Respondents**

**6. CWP No.8566 of 2013**

Nachhattar Singh ........ **Petitioner**

**versus**

State of Punjab and others ....... **Respondents**

**7. CWP No.8567 of 2013**

Surinder Kaur ........ **Petitioner**

**versus**

State of Punjab and others ....... **Respondents**

**8.** **CWP No.8568 of 2013**

Malkiat Singh ........ **Petitioner**

**versus**

State of Punjab and others ....... **Respondents**

**9.** **CWP No.8570 of 2013**

Jagir Kaur ........ **Petitioner**

**versus**

State of Punjab and others ....... **Respondents**

**10.** **CWP No.541 of 2015**

Baldev Raj ........ **Petitioner**

**versus**

State of Punjab and others ....... **Respondents**

**CORAM HON'BLE MR. JUSTICE K.KANNAN**

**1. Whether reporters of local newspaper may be allowed to see judgment?**
**2. To be referred to reporters or not?**
**3. Whether the judgment should be reported in the digest?**

Present: Mr. Surinder Sharma, Advocate
for the petitioner.

Mr. Inder Pal Goyat, Addl. A.G., Punjab.

Mr. Gurinder Singh Attariwala, Advocate
for respondent No.4-Municipal Corporation.

Mr. S.C. Pathela, Advocate
for respondent No.4 (In CWP No.541 of 2015).

**K.Kannan, J (Oral)**

In all these cases the point for consideration is the value to be adopted for a document registered and the stamp duty collected, if the transfer was pursuant to an allotment by Government or Semi Government Organization. The documents were presented for registration before 31.12.2009 either at the instance of the original allottees or the transferees from such allottees. The objection taken by the Collector in his move for application of the stamp duty that was leviable, namely, whether the value on the date of original allotment was to be reckoned or the value as on the date of registration was applicable.

Admittedly, the Government had brought notification over a period of time under Section 47(A) read with Section 75 of the Indian Stamp Act by amending Rule 3(A) of Punjab Stamp (Dealing of undervalued Instruments) First Amendment Rules of 2009 by the notification dated 02.03.2009. An explanation was added that the application for registration, if made within 3 months from the date of notification, the consideration fixed by the Government or Semi Government organization at the time of allotment a loan was to be collected. The period which expired in June, 2009 was further extended by a fresh notification made on 20.05.2009 allowing for a further period of 3 months from the payment of the last regular installments. By another notification dated 11.11.2009, the benefit was extended to an original allottee or persons claiming from such allottee through Government or Semi Government Organization who had to pay the full and final installment or the legal heirs of the original allottee in case of death of the allottee.

In this case when the document was presented for registration before the outer limit of the period mentioned in the notification, the collector was interpreting the notification as available only to original allottee in cases of documents presented for registration by the notification dated 20.05.2009 and was prepared to give the benefit of notification dated 11.11.2009 only to such transferee where the original allottee had not paid the full and final installment. The contention was that the allottees had actually paid the consideration even in the year 1989 and consequently the benefit of notification cannot apply.

I find that the manner in which the notification was sought to be applied is unrealistic. The notification must be taken as making possible registration of the sale deed at the rate the property was allotted and not the rate at which the property could have been sold at the time of registration. The reason is obvious. The undervaluation of what the relevant rules seek to prohibit must be to prevent any attempt to undervalue the property covered under documents and deprive the state of its revenue. If the notifications had been issued to treat the consideration in the allotment as governing the issue also for documents brought to registration subsequently, it was on the premise that the state valuation could not have been wrong or there could be no attempt of any party to deliberately undervalue the properties and deprive the state of its revenue. If there is reference to the application of these notifications to persons who had not yet paid the full and final installment, it is only because if the consideration had been paid already, there ought to have been a registration done immediately after the payment of consideration and the documents that had not been registered could be cases where the consideration had not been paid. If the notification could be applied only where consideration had not been paid, then it would lead to a situation of purchasers or transferees who had been diligent and who had made the payments but who could not register the document for no fault of theirs being deprived of the benefit of the notifications. Such a reading of the notifications will subvert the manner of how the undervaluation is sought to be prevented and defeat the benefit extended to persons who are allottees or purchasers from public authorities. I will discard the argument made on behalf of the State and hold that the benefit of the notification will apply to either allottees or transferees provided the documents which are brought for registration before the period stipulated under the respective notifications. Since the successive notifications covered the period upto which the previous notification was operative, I will take the outer limit prescribed and the last date mentioned in the notification issued on 11.11.2009, namely, the last date 31.12.2009 as the date which should be relevant for application of benefit of notification. This would mean the compulsion to register the documents without demanding any additional duty and take the consideration mentioned in the allotments to the allottees as well as to the transferees as alone relevant. Section 47 (A) of the Stamp Act, requires an adjudication to be made to determine the actual value of the property. The valuation which is relevant at all times shall be the date when the bargain is struck. The valuation determined ought to be the date when the allotment was made and the installments were required to be paid. Even if the consideration had been paid early, if the public authority itself did not register the sale deed, I will not take the default or lapse on the part of public authority to dictate an application to the purchaser to pay an additional duty. All the impugned notices requiring additional duty are quashed.

The writ petitions are all allowed. The documents are ordered to be returned after due registration on the valuation as per over the consideration recited in the original orders of allotment.

The writ petitions are allowed.

The photocopy of this order be placed on the files of other connected cases.

**(K. KANNAN)**
**JUDGE**

**February 09, 2015**
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