

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

RSA No.3460 of 2012 (O&M)

Date of decision : 15.09.2015

Gurmit Kaur

...Appellant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers 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. C.L. Sharma, Advocate for the appellant.

Mr. Rajesh Mehta, Addl. A.G. Punjab.

AMIT RAWAL, J. (Oral)

Challenge in the present appeal is to the concurrent findings of facts, whereby suit for permanent injunction restraining the respondent State from recovering a sum of ₹56,000/- vis-a-vis alleged deficiency in the stamp duty and the registration fee qua the sale deeds dated 29.09.2000 and 12.10.2000 bearing document Nos.2913 and 4193, has been dismissed.

Mr. C.L. Sharma, learned counsel appearing on behalf of appellant-plaintiff submits that both the Courts below have committed illegality and perversity in not noticing that demand raised by the State for making deficiency in the stamp duty was, ex facie time barred, in essence

demand was made in the month of May 2005. In support of his contention, he has relied upon judgment of this Court rendered in *Sub Registrar Nuh and another Vs. Mahipal and others, 2011(3) PLR 422*.

Mr. Rajesh Mehta, Addl. A.G. Punjab submits that though at the time of registration of the sale deed, the sale deed was not impounded as required stamp duty was paid but later on, on the basis of the complaint, it surfaced that there was deficiency in the stamp duty, therefore, demand in the month of May, 2005 had, rightly, been raised. Both the Courts below have rightly dismissed the suit, as suit was ex facie was not maintainable.

I have heard learned counsel for parties and appraised the paper book.

For adjudication of the present dispute, following substantial question of law arises:-

1. Whether action of the respondent State in raising the demand in the month of May, 2005 in respect of the sale deed executed in 2000 had ex facie time barred or not.

As per the ratio decidendi culled out by this Court in judgment cited (Supra), limitation is three years from the date of the registration of the documents. The respondent admittedly issued notice in the month of May, 2005. In my view, such demand was beyond period of three years, therefore, barred by law of limitation. There is no dispute that the sale deed aforementioned registered in the year 2000, was not wanting any deficiency in the stamp duty.

Mr. C.L. Sharma, learned counsel for the appellant submitted that amount of ₹56,000/- as allegedly raised by the defendants, stood

already deposited.

In view of what has been observed above, the appeal is allowed. Impugned judgments and decrees are set aside.

Question of law as noticed above is answered in favour of the appellant-plaintiff and against the respondent-defendant. The appellant-plaintiff is held entitled to permanent injunction restraining the defendant to recover the aforementioned amount being barred by limitation.

Respondent State is directed to refund the amount so deposited within a period of one month from the date of receipt of certified copy of the order.

Appeal stands allowed.

15.09.2015

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**(AMIT RAWAL)
JUDGE**