IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.10559 of 2012
Date of Decision:-04.04.2016

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Smt. Sumitra

. . . .Petitioner

Versus

The Commissioner, Hisar Division, Hisar and others

. . . . Respondents

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CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

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Present: Mr.S.K. Verma, Advocate,
for the petitioner.

Mr.P.P. Chahar, DAG, Haryana.

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RAKESH KUMAR JAIN, J.

The petitioner with her sister-in-law Suman wife of Ram Pal purchased Nehri agriculture land measuring 2 kanal 13 marlas i.e. 1603 sq. yards in equal shares and got it registered in the office of Joint Sub-Registrar, Balsamand vide Vasika No.235 dated 23.12.2008 at the rate of ₹1,99,000/- per acre.

After the registration of the sale deed, the audit party worked out the deficiency of stamp duty of ₹32,530/- and the Joint Sub-Registrar, Balsamand vide his letter No.2/Reader dated 8.9.2010 sent the sale deed for verification/decision to the District Revenue Officer [for short 'the DRO'], Hisar. The DRO exercising his power of Collector, Hisar vide his order dated 3.8.2010, while proceeding *ex parte* against the petitioner, held the deficiency of stamp duty as correct. The petitioner filed an application for setting aside the *ex parte* proceedings but the same was dismissed on 25.4.2011. The petitioner filed a revision before the

Commissioner, Hisar Division, Hisar to challenge the orders dated 3.8.2010 and 25.4.2011 alleging that the sale deed was registered as per the Collector rate as applicable in the Revenue Estate of Village Gawar. However, the revision was dismissed on 27.9.2011. Hence, the present petition has been filed to challenge the order dated 3.8.2010 passed by the Collector and order dated 27.09.2011 passed by the Commissioner, *inter alia,* on the ground that the land in question is neither in the municipal limits nor in the residential area of the village rather it is situated 2-3 Kms away from the abadi and that the observations of the respondents-authorities that the land in question should not have been registered at the rates of per acre in respect of the rates applicable to the agriculture land is incorrect and erroneous.

It is argued by learned counsel for the petitioner that though the respondents have admitted that the nature of the land is Nehri but since the piece of land was small, therefore, the value assessed at the collector rate of ₹800 per sq. yard.

Learned counsel for the respondents has submitted that the deficiency has been worked out because the total land measuring 1603 sq. yard has been sold to two persons in equal shares, who would get 800 sq. yards each and would be less than 1000 sq. yards, therefore, as per the instructions dated 12.11.2000 and 2.9.2013, the deficiency of stamp duty has been carried out.

I have heard learned counsel for the parties and perused the record from which it is found that the petitioner has been proceeded *ex parte* by the Collector and her application for setting aside the *ex parte* order was also dismissed. It is not considered by the Collector that the land in question is 2-3 Kms away from the village abadi and whether or not it could be covered by the State instructions, which are applied in this case.

Thus, keeping in view the totality of facts and circumstances, I am of the considered opinion that both the impugned orders deserves to be set aside for fresh hearing by the Collector. Accordingly, the writ petition is allowed, impugned orders are set aside and the mater is remanded back to the Collector, Hisar, who would decide the issue involved after giving an opportunity of hearing to the petitioner and shall pass a speaking order, in accordance with law.

(RAKESH KUMAR JAIN)
JUDGE

04.04.2016
Vivek