IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.6061 of 2009(O&M)

Date of Decision:- 17.2.2016

Bhagwan Dass …Petitioner

Vs.

State of Punjab & Ors. …Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present:- Mr.Parminder Singh-I, Advocate for the petitioner.

Mr.B.M.Vinayak, DAG Punjab.

Rajesh Bindal, J.

The petitioner, who was granted a licence of deed writer at Bathinda, has filed the present petition impugning the order dated 31.7.2007(Annexure P3) passed by Registrar-cum-Deputy Commissioner, vide which, the licence of petitioner was cancelled, the order dated 13.2.2008 (Annexure P4) passed by the Commissioner, Faridkot Division, Faridkot (respondent No.3), vide which, appeal against the order dated 31.7.2007 was dismissed and order dated 2.12.2008 (Annexure P5), vide which, revision has also been dismissed, upholding the order of cancellation.

The learned counsel for petitioner submitted that petitioner was granted the license of deed writer in the year 1974 and since then, he had been working honestly. On 25.1.2007, Jarnail Kaur approached the petitioner to scribe the transfer deed in favour of Lovepreet Singh son of

Angrej Singh, her great grandson, the valuation of the property mentioned in the transfer deed was ₹ 4,90,000/-. The stamp duty was accordingly affixed when it was presented for registration before the Sub Registrar, even he endorsed that the stamp duty had rightly been affixed. When the transfer deed was produced before the Assistant Collector IInd Grade for sanction of mutation, the same having been contested by Naseeb Kaur, the matter was referred to Assistant Collector 1st Grade. The petitioner was issued notice alleging that though the amount of ₹ 32,000/- was given to him, but he did not affix the stamp duty on the document. Thereafter, the matter regarding valuation of stamp duty was taken up by the Collector under Section 47-A of the Indian Stamp Act, 1899 (in short "the Stamp Act"). Finally, the stamp duty was determined vide order dated 28.8.2007 and was duly paid by the vendee. The proceedings were initiated against the petitioner for cancelling his licence and the order was passed by the Registrar (Deputy Commissioner), Bathinda on 31.7.2007 cancelling the licence of deed writer on the ground that he had not calculated the correct stamp duty, which was required to be affixed on the document scribed by him.

Referring to a Division Bench's judgment of this Court in Suresh Kumar Vs. State of Punjab and another **2008(3) RCR (Civil) 713**, the contention is that it is not the duty of a document writer to write the document on a stamp paper of proper value, which is the prevailing market value and such an interpretation would result in conferring power on a document writer, which are to be exercised by the Collector under Section 47-A of the Stamp Act. Hence, cancellation of licence of petitioner for alleged violation of Rule 14 (g) of The Punjab Document-Writers

Licensing Rules, 1961 (hereinafter to be referred as "the Rules")deserves to be set aside.

On the other hand, learned counsel for State of Punjab submitted that as per rules, the terms and conditions have been imposed on the deed writer that he is duty bound to see that the document is written on a stamp paper of proper value and that the document is classified according to its substance. Once it is found that the document scribed by the petitioner on the stamp paper was undervalued, his licence was rightly cancelled.

Heard the learned counsel for the parties and perused the paper book.

The relevant Rule 14(g) of the Rules is extracted below:-

> ***14. Conditions of licence.***– *A document-writer:-*
>
> *(a) to (f) xxx xxx xxx*
>
> *(g) "shall be responsible to see that the document is written on a stamp paper of proper value and that the document is classified according to its substance."*

The aforesaid rule came up for consideration before this Court in Suresh Kumar's case(supra) and it was opined that it is not possible to interpret the rule to mean that the document writer is expected to insist on the parties to disclose market value of the property either as per collector's rate or the prevailing market rates. Such an interpretation would result into conferring power on a document writer which are to be exercised by the Collector under Section 47A of the Stamp Act. In the case in hand, the license of the petitioner was cancelled on the ground that the document scribed by him was not on a stamp paper of proper value. It is not in dispute that at the time of registration, the Sub Registrar endorsed that the proper stamp duty has been affixed as per the valuation disclosed. Meaning thereby, prima facie, even the Sub Registrar was satisfied about the stamp duty affixed on the document scribed. It was lateron that the matter was taken up under section 47-A of the Stamp Act and the deficiency in stamp duty has been found and the same was also paid by the transferee without any contest. Hence, the petitioner cannot be held responsible and his license cannot be cancelled on that account.

In view of my aforesaid discussions, in my opinion, the impugned orders dated 31.7.2007, 13.2.2008 and 2.12.2008 (Annexures P3 to P5 respectively) passed by the authorities deserve to be set aside. Ordered accordingly.

The petition stands disposed of.

(Rajesh Bindal)
Judge

17.2.2016
AS

(Refer to Reporter)