

In the High Court of Punjab and Haryana at Chandigarh.

**CWP-13057 of 2015 (O&M)
Decided on 19.10.2016**

Raj Kumar

--Petitioner

Vs.

State of Punjab and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Vikas Mehsempuri, Advocate, for the petitioner

Mr.Anant Kataria, DAG, Punjab.

Mr.Umesh Kanwar, Advocate, for private respondent No.4.

Rakesh Kumar Jain,J: (Oral)

This petition is filed in order to challenge the validity of the order dated 20.3.2012 passed by the Collector, Patiala and the order dated 06.02.2014 passed by the Divisional Commissioner, Patiala, whereby the petitioner has been asked to pay the deficiency of stamp duty under Section 47-A of the Indian Stamp Act, 1899 (for short, 'the Act') as applicable to the State of Punjab, to the tune of ₹4,25,880/- and ₹11,560/- towards registration charges along-with interest/fine, total amounting to ₹4,37,447/-.

Learned counsel for the petitioner has submitted that the petitioner had purchased land measuring 2 kanal 19 marla for a sale consideration of ₹5,42,000/- vide sale deed dated 01.10.2009. The Sub Registrar, Patiala, vide letter No.1556/R.C Dated 29.9.2011, sent this

vasika/deed to the Collector (A.D.C.) Patiala, alleging that during audit, it has been found that the stamp duty has been inadequately affixed by the purchaser/ petitioner and, thus, deficiency has been found by the Audit Party.

Learned counsel for the petitioner has submitted that the land at the time of purchase was recorded in the jamabandi for the year 2006-2007 as agricultural land (chahi) and the nature of the land is still maintained as it is. However, the respondents have raised the objection about the affixing of the stamp duty by the petitioner on the ground that the area purchased by the petitioner is so small, therefore, it cannot be put to agricultural use and shall be converted by the petitioner into residential in future.

Learned counsel for the petitioner has submitted that nature of the land is to be seen at the time of its purchase for the purpose of affixation of stamp duty and registration charges in terms of the provisions of the Act and not its future use and in support of his contention, reliance is placed upon a judgment in the case of **State of U.P and others Vs. Ambrish Tandon and another** 2012 (1) R.C.R.(Civil) 865.

Learned counsel for the respondents has filed reply today in court and submitted that in the khasra girdawaris for the years 2008-2009 and 2012-2013, the land in question has been recorded as '*gair mumkin*' and not as '*chahi*'.

Be that as it may, the fact remains that so far the agricultural land purchased by the petitioner has not been converted into residential and is being retained as agricultural and has been shown to the Court at the time of issuance of notice of motion by way of photographs of the land.

Therefore, the stand taken by the respondents cannot be accepted in view of the judgment in **Ambrish Tandon's case** (Supra).

Consequently, this petition is found to be meritorious and the same is hereby allowed and the impugned orders are set aside.

19.10.2016
rr

(Rakesh Kumar Jain)
Judge

Whether Speaking/Reasoned: Yes/No.

Whether Reportable: Yes/No.