Sr. No.248

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

**CWP No. 13394 of 2015
Date of decision:26.09.2016**

Harpreet Singh Bajwa

.........Petitioner

versus

Commissiner, Jalandhar Division and others

..........Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Harsh Bunger, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Punjab.

Rakesh Kumar Jain, J.(Oral)

This petition is directed against the order dated 20.05.2013 (Annexure P-9) passed by the Collector, Jalandhar Division, Jalandhar by which recovery of Rs. 9,81,460/- has been assessed against the petitioner towards deficiency of stamp duty and the order dated 21.05.2014(Annexure P-11) passed by the Commissioner, Jalandhar Division, Jalandhar by which statutory appeal filed by the petitioner was dismissed even without issuing notice to the petitioner.

Counsel for the petitioner has submitted that the petitioner purchased the property in question in auction held by the bank. Sale certificate was issued by the Bank on 30.08.2006 and the same was registered on 24.03.2008.

However, one Davinder Singh s/o Surat Singh made two complaints on 14.03.2011 i.e. one before the Commissioner, Jalandhar

Division, Jalandhar and another before the Deputy Commissioner, Jalandhar for initiating proceedings against the petitioner under Section 47-A of the Indian Stamp Act, 1899 (for short, 'the Act') on the ground that the sale certificate is under valued and requires additional stamp duty.

The Collector, on the complaint, issued notice to the petitioner on 6.12.2011(Annexure P-7). The petitioner filed a reply to the notice and ultimately on 20.05.2013, the Collector passed the order.

Aggrieved against the said order, the petitioner filed a statutory appeal before the Commissioner of the division which too was dismissed 21.05.2014(Annexure P-11) and hence the present petition has been filed.

Counsel for the petitioner, inter alia, contends that the proceedings under Section 47-A(1)(3) as applicable to the State of Punjab can be initiated within a period of 3 years, even suo motto, but not beyond that and has relied upon the decision of this Court rendered in the case of *Zile Singh vs. Commissioner, Hisar Divn. Hisar and others 2016(3) PLR 492.* He has also submitted that the sale certificate does not require registration and has relied upon a division bench judgment of this Court in the case of *M/s Ferrous Alloy Forgings Pvt. Ltd. vs. State of Punjab and others 2014(1) R.C.R.(Civil) 1029* and has also relied upon the judgment of the Apex Court in the case of *V.N.Devadoss vs. Chief Revenue Control Officer-cum-Ins. and others 2009(3) R.C.R(Civil) 496* to contend that in case of auction under the provisions of Sick Industrial Companies(Special Provision) Act, 1985, provision of Section 47-A of the Act would not apply.

It is also submitted that not only the Commissioner but the Collector also did not look into all these aspects before passing the impugned order. Therefore, it is submitted that the impugned order may be set aside and the matter may be remanded back to the Collector as he has not given any reason but for calculating the amount to be paid by the petitioner.

Counsel for the respondent has fairly not contested the argument raised by counsel for the petitioner because it is based upon the law laid down by this Court or the Apex Court. However, he has also submitted that the order passed by the court below may be set aside and the matter may be ordered to be remanded, back to be decided afresh in accordance with law, after giving opportunity of hearing to both the parties.

I have heard learned counsel for the parties and perused the record.

I do not want to go into the minute details of the facts but suffice to say that the respondents are required to consider the statutory provisions of the Act and the precedents in order to decide as to whether the petitioner is liable to pay the additional stamp on the sale certificate which was registered way back on 24.03.2008. It is also required to decide as to whether the Collector could have initiated proceedings in terms of Section 47-A(1)(3) of the Act after a period of three years.

Thus, in view of the aforesaid discussion, the present petition is hereby allowed and the impugned orders passed by the Collector and Commissioner Jalandhar Division, Jalandhar are hereby set aside and the matter is remanded back to the Collector, Jalandhar Division, Jalandhar to decide the matter a fresh after giving opportunity of hearing to both the parties.

Parties are directed to appear before the Collector, Jalandhar on 26.10.2016.

[Rakesh Kumar Jain]
Judge

26th September, 2016
Shivani Kaushik

Whether Speaking/reasoned Yes/No

Whether Reportable Yes/No