

CWP No.14564 of 2014

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

**CWP No.14564 of 2014
Date of decision:07.12.2016**

Kamlesh Rani

...Petitioner

Versus

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.

Rakesh Kumar Jain, J.

The petitioner purchased a plot measuring 242 sq. yards, situated at Gali Arya Women College, Barnala vide registered Vasika No.6087 dated 23.12.2005. On a complaint, the SDM, Barnala, conducted an inquiry and found that the place mentioned in the sale deed is commercial and there was a deficiency of stamp duty amounting to ₹3,19,120/-. On the basis of the inquiry report submitted by the SDM, Barnala, the Sub Registrar, Barnala, impounded the sale deed and sent the same to the Collector, Barnala, vide letter No.1861/RC dated 23.10.2008. The Collector passed the order dated 18.02.2009 to recover an amount of ₹3,19,120/- from the petitioner, against which the petitioner filed an appeal to the Commissioner, Patiala Divisiona, Patiala, on 09.08.2010. The appeal was allowed on 06.12.2011 and the matter was remanded back to the Collector, Barnala.

After the remand, the Collector, Barnala, stated to have visited the spot on 14.07.2012 in presence of the Field Kanungo, Halqa Patwari

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Barnala-D, Halqa Patwari Barnala-B and found that the area in question is just in front of Ram Bagh, on which a big shop was constructed. Thereafter, the Collector assessed the rates in terms of Code No.35, which pertains to the commercial property, at the rate of ₹2,000/- per sq. feet and held that the total value of the land was ₹43,56,000/-, which was wrongly got registered by the petitioner by mentioning the area of sale deed in Code No.34, which was of residential property.

Counsel for the petitioner has submitted that Code No.34 for the purpose of registration of sale deed is applicable to the property in question as per which the property falling in the area from Chintu Road to Namdev Chowk towards fire bridge (in between K.C.Road and Ram Bagh road) was to be registered @ ₹1,800/- per sq. yard, whereas Code No.35 pertains to the area from Gadda Khana Chowk to Grain Market Road upto Khudi Naka, in respect of which the Collector rate has been fixed @ ₹2,000/- per sq. yard. The petitioner has attached the site plan as Annexure P-6 with the petition and submitted that the land in question is admittedly found by the respondents in the area of Ram Bagh situated on the main road and, thus, falls within Code No.34, to which applicable collector rate is of ₹1,800/- per sq. yard for residential purpose and the collector rate applicable to Code No.35, which is meant for commercial property, is @ ₹2,000/- per sq. feet.

Counsel for the petitioner has further submitted that the evaluation cannot depend only upon the spot inspection without considering the comparative material to support it and in this regard, he has relied upon a Division Bench of this Court in the case of **Madan Lal vs. State of**

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Punjab and others, 2008(3) R.C.R.(Civil) 462.

Counsel for the petitioner has also submitted that the averment made in para 12 of the writ petition, in which the petitioner has made a reference to the site plan, has been vaguely denied by the respondents in the corresponding paragraph of the written statement, as it has not been denied that the land in question does not fall at the spot shown in the site plan.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the impugned orders are patently erroneous and illegal. The respondents themselves have relied upon the collector rate of City Barnala in which Code No.34 deals with the residential property and Code No.35 with the commercial property, as mentioned by the petitioner as well and since the property in question has been found in front of Ram Bagh, which is within the area covered under Code No.34 and not in the khasra numbers which are mentioned in Code No.35, therefore, the rate of Code No.34 are to be applied as per which the petitioner has already affixed the stamp duty and registration charges. The respondents have, thus, committed an error apparent on record to consider the land of the petitioner in the commercial area to apply Code No.35 for it for the purpose of claiming deficient stamp duty and registration charges.

In view of the above, the present petition is hereby allowed and the impugned orders passed by the authorities below are set aside.

December 07, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No