IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17087 of 2015

Date of Order: 24.02.2016

Eshbeen Kaur

....Petitioner

Versus

State of Punjab and Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Sarju Puri, Advocate for the petitioner.

RAKESH KUMAR JAIN, J

Petitioner along with Surjit Kaur purchased 603/1827 share out of land measuring 2 Kanal 10 Marla 6-3/4 Sarsahi situated in the area of Village Karyam, District SBS Nagar vide sale deed dated 16.5.2008, registered on 27.5.2008 from Harkiran Singh son of Gurbachan Singh for a total consideration of ₹9,52,000/- and paid stamp duty of ₹66,700/-. After registration of sale deed, it was handed over to the petitioner by Sub Registrar. The petitioner further sold the land purchased by her in 2013. However, she received a notice No.1613 dated 12.5.2015 for recovery of Rs.1,47,047/- on account of deficiency of Stamp duty and registration fee on the sale deed dated 16.5.2008 registered on 27.5.2008. The petitioner has thus challenged the notice/demand by way of present writ petition.

Learned counsel for the petitioner has submitted that the maximum limitation is three years provided in Section 47-A (3) as applicable to Punjab of the Indian Stamp Act, 1899 (for short "the Act") whereas notice has been issued after 7 years of the sale deed after the petitioner had further sold the land.

Learned counsel for the respondent has submitted that the notice has been issued because the Auditor has found deficiency of stamp duty, however, it is not mentioned that on which date, the Auditor has found or detected the deficiency in the fixation of stamp duty.

I have learned counsel for the parties.

Section 47-A(3) provides that the Collector may suo motu, or on receipt of reference from the Inspector-General of Registration or the Registrar of a district in whose jurisdiction the property or any portion thereof which is the subject-matter of the instrument is situate, appointed under the Registration Act, 1908, shall, within three years from the date of registration of any instrument, not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of its value or consideration, as the case may be, and the duty payable thereon and if after such examination, he has reasons to believe that the value or consideration has not been truly set forth in the instrument, he may after giving the parties a reasonable opportunity of being heard and after holding an enquiry in the matter as provided under Section 47-A (2), may determine the value or consideration and the duty with which it was chargeable and the deficient amount of duty can be claimed from the date of registration of sale deed along with interest.

In the present case, however, neither any inquiry has been conducted nor it is clear from the facts as to when the Auditor had made the reference to the Collector. Thus the period has to be counted from the date of notice, which has been sent on 12.5.2015 after about 7 years of the registration of the sale deed, which is clearly barred by limitation in terms of Section 47-A (3) of the Act as applicable to Punjab.

In view of the aforesaid, impugned notice dated 12.5.2015 is found to be totally illegal and arbitrary and hence the same is hereby quashed. Writ petition is allowed though without any order to costs.

February 24, 2016 **(RAKESH KUMAR JAIN)**
manoj **JUDGE**