

Sr. No.230

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

CWP No. 21879 OF 2013

Date of decision: 14.07.2016

Krishna Devi

.....Petitioner

versus

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. B.S.Jatana, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Punjab.

Rakesh Kumar Jain, J.(Oral)

The case set up by the petitioner is that he had purchased land measuring 10 marlas i.e. 10/20 share out of 1 Kanal bearing khasra No. 89//14 min(1-0), khewat khatauni No. 135/771 situated with the area of village Sardulgarh, Tehsil Sardulgarh, District Mansa from respondent No. 5 for a consideration of ₹1,50,000/- which was got registered with the Sub-Registrar, Sardulgarh. The petitioner affixed the stamps worth ₹10,500/- as per the prevailing Collector rate.

According to the respondents Audit Party of Deputy Controller (Finance & Accounts), Bathinda made an inquiry regarding sale deed registered in the office of Sub-Registrar, Sardulgarh between 1.04.2008 to 31.03.2009 and raised objection regarding sale deed No. 1208 dated 6.10.2008(in question). As per Sr. No. 42(A) and Naksha, the price of the land per marla was determined at ₹80,000/- and found deficiency of Stamp Duty and Registration Fee to the tune of ₹44,000/-. Sub-Registrar, Sardulgarh recommended an action under Section 47-A of the Indian Stamp

Act, 1899(for short, 'the Act') and referred the matter to the office of Collector(A.D.C.), Mansa. The Collector(A.D.C.), Mansa allegedly issued notice on Form No. 1 in terms of Section 4(1) of The Punjab Stamp (Dealing of Under Valued Instruments), Rules, 1983(for short, 'the Rules') and on the alleged refusal to receive the notice, it was pasted on the house of the petitioner who did not appear before the Collector(A.D.C.) Mansa.

In the ex parte proceedings, the Collector (A.D.C.), Mansa passed the order dated 30.05.2012, holding the price of land per marla at ₹80,000/- and the deficiency in the Stamp Duty as well as Registration Charges which were ordered to be recovered from the petitioner w.e.f. 13.06.2012.

Aggrieved against the order of the Collector (A.D.C.), Mansa dated 30.05.2012, the petitioner filed a statutory appeal before the Commissioner, Faridkot Division, Faridkot which was dismissed vide its order dated 17.07.2014. Hence, the present petition has been filed to challenge both the orders passed under the Act whereby petitioner has been asked to pay deficiency in Stamp Duty and Registration Charges.

Learned counsel for the petitioner has submitted that even if the action has to be taken suo motto or on a complaint under Section 47(A)(3) (as applicable to the State of Punjab) of the Act, the limitation provided is of three years. It is further submitted that the action initiated by the respondents against the petitioner is barred by limitation as the sale deed was executed on 6.10.2008 and the proceedings even suo motto were initiated under Section 47(A)(3) of the Act on 17.04.2012 which was beyond the period of 3 years. In support of his submission, he relied upon

a judgment of this Court rendered in the case of *Sharmila Rani and others vs. State of Punjab and others* in CWP No. 5690 of 2014 decided on 29.02.2016.

Learned counsel for the respondents has submitted that the petitioner is liable to pay the deficient Stamp Duty and the Registration Charges as per the provisions of the Act but there is no submission on the issue of limitation as to whether the action initiated against the petitioner was within a period of three years or not.

Be that as it may, there is no evidence brought on record from both the sides about the date on which the alleged notice on Form No. 1 was issued by the Collector under Section 4(1) of the Rules, rather it is pointed out by counsel for the petitioner that proceedings before the Collector (A.D.C.Mansa) was instituted on 17.04.2012 which was itself after a period of three years as limitation has to be counted from the date of execution of the sale deed.

I have heard learned counsel for the parties and after examining the available record, am of the considered opinion that the impugned orders are unsustainable in law as action initiated against the petitioner under the provisions of the Act and Rules is beyond the period of limitation as already held in the case of *Sharmila Rani and others*(supra).

Consequently, the present petition is hereby allowed and the impugned orders are set aside.

14th July, 2016
Shivani Kaushik

[Rakesh Kumar Jain]
Judge

SHIVANI
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I attest to the accuracy and
authenticity of this document
Chandigarh