HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.18425 of 2016
Date of decision:6.9.2016

The Lord Krishna Co-operative Housing Building Sabha Limited, Bareta through its President

...Petitioner

Versus

State of Punjab and others

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Jatinder Singla, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Present writ petition is directed against the order dated 17.02.2016, passed by the Commissioner, Faridkot Division, Faridkot, whereby appeal of the petitioner against the order dated 17.09.2014 passed by the Collector/ADC Mansa, was dismissed, directing the petitioner to pay the stamp duty, as per the rates prevalent at the time of registration of sale deed.

Heard learned counsel for the petitioner.

It is a matter of record that petitioner, who was a Co-operative Housing Building Society purchased the land measuring 26 kanals 8 marlas vide sale-deed dated 23.5.2011 (Annexure P-1) for the residential purpose, however, showing the land to be *Barani*. It is also a matter of record that at the time of registration of sale-deed (Annexure P-1), the collector rates, which were in operation, were issued as per Annexure P-2, for the years 2010-11 and 2011-12. The collector rate, for the land which was purchased by the petitioner-society for residential purpose, was at the rate of

Rs.31,500/- per marla. When this material fact came to be noticed during audit, it was pointed out that petitioner has not paid the requisite amount of stamp duty. Accordingly notice was issued and the Collector vide his self-contained order dated 17.9.2014 (Annexure P-9) found that the petitioner was liable to pay the remaining amount towards stamp duty.

Feeling aggrieved against the order passed by the Collector, petitioner filed his appeal before the Commissioner which came to be dismissed vide impugned order dated 17.2.2016 (Annexure P-12.). Hence this writ petition.

During the course of hearing, when confronted with the material fact that the petitioner purchased the land for residential purpose and at that point of time when sale-deed (Annexure P-1) was executed, collector rates were prevalent, as contained in Annexure P-2, he had no answer and rightly so, it being a matter of record. However, learned counsel for the petitioner places reliance on a judgment of the Hon'ble Supreme Court in **State of U.P. and others Vs. Ambrish Tandon and another, 2012 (1) RCR (Civil) 865**, to contend, that subsequent user of property purchased cannot be taken into consideration for calculation of stamp duty. So far as the law laid down by the Hon'ble Supreme Court in **Ambrish Tandon's** case (supra) is conerned, there is no dispute about the same. However, on close perusal of the cited judgment, it is of no help to the petitioner, being distinguishable on facts. It is so said because the material fact, in the present case which has gone undisputed on record, is that the petitioner-society purchased the land for residential purpose for which the prevalent collector rates were, as pointed out in Annexure P-2, at the rate of Rs.31,500/- per marla. This being the clear distinguishing feature in the present case, judgment of the Hon'ble Supreme Court in **Ambrish Tandon's** case (supra) would not be applicable to the fact situation of the instant case. Further it is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmasundra (Dead) Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

Once the petitioner-society itself was registered as a Cooperative House Building Society and with a view to achieve its objects of construction of houses, petitioner-society purchased the land vide sale-deed dated 23.5.2011 (Annexure P-1) for the residential purpose, there cannot be any scope of doubt that the petitioner-society was obliged to pay the stamp duty, as per the prevalent collector rates contained in Annexure P-2.

Another submission made by the learned counsel for the petitioner in this regard is that Annexure P-2 came to be withdrawn by the State vide Annexure P-13 dated 3.4.2014 would again be of no help to the petitioner, because on the date of registration of sale-deed (Annexure P-1) prevalent rates were as contained in Annexure P-2, which was admittedly not paid by the petitioner. Having said that, this Court feels no hesitation to conclude that the Collector as well as Commissioner committed no error of law, while passing their respective impugned orders and the same deserve to be upheld for this reason also.

Another contention raised by the learned counsel for the petitioner was that proper opportunity was not granted to the petitioner before passing the impugned order by the Collector. A bare perusal of the impugned order passed by the Collector would show that the impugned order is a self-contained order which has been passed, strictly in accordance with law. Principle of natural justice were complied with. Further, learned counsel for the petitioner could not point out any kind of prejudice, which might have been caused to the petitioner.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned orders passed by the Collector as well as Commissioner have not been found to be suffering from any patent illegality or perversity, the same deserve to be upheld. Instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present writ petition stands dismissed, however, with no order as to costs.

6.9.2016 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No