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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.42 of 2012
Date of decision:22.04.2016

Aggarwal Construction Company …Petitioner

Versus

State of Punjab and others …Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Ashish Gupta, Advocate, for the petitioner.

Mr. V. Ramswaroop, Addl. A.G., Punjab.

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Rakesh Kumar Jain, J.

The petitioner, a partnership firm, purchased agricultural land measuring 12 kanal 13 marlas out of the total land measuring 22 kanal 08 marlas, being 506/896 shares, comprised in Musteel and Killa No.233//11 (8-0), 20/1 (4-4), 234//16/1 (2-4), 15 (8-0), Khewat/Khata No.815/2331, as per jamabandi for the year 2003-2004, vide sale deed dated 15.06.2006 for a total sale consideration of ₹23,72,000/-. At the time of registration of sale deed, it was impounded by the Sub-Registrar on the ground of evasion of stamp duty and was lateron sent to the Collector, Mansa on 11.12.2008 for initiation of proceedings under Section 47-A of the Indian Stamp Act, 1899 on the ground that the sale deed has been registered at the lesser

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rate than the Collector rate. The Collector passed the order on 24.08.2009 observing therein that *"after the perusal of the record on the file and the complaint, I am of the opinion that although this sale deed has been executed properly at the collector rates but the facts mentioned in the complaint cannot be controverted because in the complaint, it has been mentioned that the concerned land is near to the new Grain Market and due to this, the actual rate of this land is more than the collector rate".* Thus, it was observed that the value of the land sold should not be less than ₹20 lacs per acre and hence, the value of the land sold measuring 12 kanal 13 marlas was assessed @ ₹31,62,500/- and the deficient stamp duty of ₹71,145/- was ordered to be deposited in the treasury. The order dated 24.08.2009 was challenged by the petitioner by way of appeal before the Divisional Commissioner, which was dismissed on 07.01.2011 only on the ground that the property covered by the sale deed in question is near the new Grain Market and the petitioner has converted the land in dispute into a residential colony.

Aggrieved against the order of the Collector dated 24.08.2009 and the Divisional Commissioner dated 07.01.2011, the present petition has been filed.

Counsel for the petitioner has submitted that the collector rate for Nehri land was ₹15,00,000/- per acre from 01.04.2007 to 31.03.2008, whereas the sale deed was registered on 15.06.2006 and the land purchased by the petitioner has been recorded in the revenue record as "Nehri". It is also submitted that even the Collector has also observed that the sale deed has been registered at the collector rate but the deficiency has been pointed out only on the ground that it has been found located near the new Grain Market that too after the spot inspection carried out after a period of 2-½ years from the date of sale.

In this background, the petitioner has contended that firstly the value of the land has to be seen at the time of registration of sale deed and not in respect of the subsequent escalation and secondly the nature of the land has to be seen at the time of its purchase and not its subsequent use. It is also submitted that the petitioner has purchased the land on the basis of collector rate and no other yardstick can be applied for enhancing the rate, as has been done in the present case on the basis of the spot inspection that the land in question has been found located near the new Grain Market.

While supporting the impugned orders, it is submitted by counsel for the respondents that since the petitioner has been developing a residential colony near the new Grain Market on the land in question, therefore, it has rightly been made liable to pay the deficient stamp duty on the basis of the sale consideration of ₹20 lacs per acre.

I have heard learned counsel for the parties and perused the record from which I have found that admittedly, the petitioner has purchased the land in question on the basis of the collector rate of Tehsil Mansa starting from 01.04.2007 to 31.03.2008 and this fact is also admitted by the Collector in his order. It is also not disputed that the land in question was Nehri at the time of its purchase. Thus, the respondents cannot ask the petitioner for deficiency in the stamp duty

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only on the ground of its use in future by the purchaser that too on the basis of spot inspection that has been carried out after 2-½ years from the date of sale during which time the surroundings have been developed.

Thus, in view of the aforesaid facts and circumstances, the present writ petition is hereby allowed and the impugned orders, being totally illegal, are set aside.

April 22, 2016 **(Rakesh Kumar Jain)**
vinod* **Judge**