

CWP No.2537 of 2014

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

**CWP No.2537 of 2014
Date of decision:20.07.2016**

Major Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. S.S.Bhinder, Advocate,
for the petitioner.

Mr. Suresh Singla, Addl. A.G., Punjab.

Rakesh Kumar Jain, J.

The petitioner purchased 0 Kanal 15-3/5 Marlas of land from Nachhattar Singh S/o Harchand Singh vide sale deed No.2353 dated 26.08.2009 for a sum of ₹4,80,000/-. The Deputy Commissioner, Bathinda received a complaint from the Property Dealers Association dated 28.12.2010 against Jarnail Singh S/o Bachan Singh, brother of the petitioner, for evasion of the stamp duty by registering undervalued sale deed. The matter was inquired into by the Deputy Commissioner, Bathinda through SDM, Rampura Phul, who had reported that the sale deed has been registered as per the collector rate. The Additional Deputy Commissioner-cum-Collector, Bathinda, while initiating action under Section 47-A of the Indian Stamp Act, 1899 (hereinafter referred to as the "Act"), found that in

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the agreement to sell dated 06.06.2008, entered into between Nachhattar Singh and Jarnail Singh, the value of the land is shown as ₹20,02,224/- but the sale deed has been registered for ₹4,80,000/-. In this manner, he opined that the balance amount comes to ₹15,22,224/-, deficient stamp duty payable comes to ₹1,21,778/-, deficient registration fee of ₹15,222/- and the total comes to ₹1,37,000/-, which is ordered to be recovered from the petitioner along with 12% interest from the date of attestation of the sale deed till the deposit of the deficient amount of stamp duty and registration fee.

Aggrieved against the order dated 20.03.2012, ordering recovery of the deficient stamp duty and registration charges of ₹1,37,000/-, the petitioner preferred the statutory appeal before the Commissioner, Faridkot Division, Faridkot but it was dismissed vide his order dated 30.10.2013 on the ground that as per photocopy of the agreement to sell, entered into between Nachhattar Singh (vendor) and Jarnail Singh (vendee), the price of the land in question was ₹20,02,224/-, whereas the sale deed has been executed and registered only for ₹4,80,000/-.

Aggrieved against both the orders, the present petition has been filed in which counsel for the petitioner has submitted that the respondents have committed an error in relying upon an agreement to sell to fix the price of the land in question which was not even entered into between the petitioner and his vendor. It is rather submitted that photocopy of the agreement to sell should not have been relied upon by the respondents especially when the SDM has stated in his report that the sale deed has been

registered as per the collector rate. In support of his submission, he has relied upon two Division Bench judgments of this Court rendered in the cases of **Mohali Auto Craft vs. State of Punjab and others**, 2008(4) PLR 699 and **Harinder Singh and another vs. State of Punjab and others**, 2009(2) PLR 91.

On the other hand, counsel for the respondents has submitted that the agreement dated 06.06.2008, though entered into between Nachhttar Singh and Jarnail Singh, depicted the actual price of the property in question which was agreed to be purchased by the brother of the petitioner @ ₹4,242/- per square yard but the said property has been purchased by the petitioner @ ₹1,000/- per square yard in order to avoid the stamp duty and registration charges. It is, thus, submitted that there is no error in the impugned order but at the same time there is no denial to the fact that in the inquiry got conducted by the SDM, Rampura Phul through Halqa Patwari and Kanungo, it is revealed that the collector rate of the land in question was ₹1,000/- per square yard and the sale deed was correctly executed as per the collector rate. However, counsel for the respondents has vehemently argued that since the property at one point of time was agreed to be sold @ ₹4,242/- per square yard, therefore, the sale deed executed @ ₹1,000/- per square yard is undervalued.

I have heard learned counsel for the parties and examined the available record with their able assistance.

Insofar as execution of the sale deed is concerned, it is undoubtedly at the collector rate as per the report of the SDM, Rampura

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Phul submitted vide his letter dated 21.02.2011.

In **Harinder Singh's case (supra)**, this Court has held that if the sale deed has been executed as per the collector rate, then there is no violation of the provisions of the Act much-less in the execution of the sale deed to avoid the stamp duty. Similar view has been expressed by the Division Bench in **Mohali Auto Craft's case (supra)**.

No judgment to the contrary has been cited by the counsel for the respondents who has only relied upon the agreement to sell which is not executed between the petitioner and his vendor rather it was alleged to have been executed by the brother of the petitioner with the vendor who is not a party to this litigation and no other evidence has been brought on record about the prevailing market rate of the land in question.

Thus, the evidence relied upon by the respondents is not sufficient to hold the value of the land in question for the purpose of claiming the deficient stamp duty especially when the agreement to sell has not been proved on record in accordance with law.

Consequently, in view of the aforesaid discussion, the present writ petition is hereby allowed and the impugned orders are set aside.

July 20, 2016
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(Rakesh Kumar Jain)
Judge