

CWP No.2965 of 2016

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

**CWP No.2965 of 2016
Date of decision:21.07.2016**

Vikas Jain

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. I.S.Pabla, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Rakesh Kumar Jain, J.

This petition is filed to assail the validity of the order dated 17.07.2014 passed by the Collector and the order dated 12.08.2015 passed by the Commissioner, Ambala Division, Ambala, by which the petitioner has been directed to affix the deficient stamp duty of ₹1,84,800/-.

In short, the petitioner had purchased the land measuring 1 Bigha 7 Biswa 10 Biswansi in village Dhamala, Tehsil Kalka, District Panchkula vide registered sale deed dated 13.08.2012. The petitioner affixed the stamp duty of ₹1,90,750/- according to the collector rate. After registration, the sale deed was handed over to the petitioner by the Sub Registrar. It is alleged that after receiving a reference from the Sub Registrar, Kalka (respondent No.2 herein) about the audit report in which an

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objection was raised about the deficiency of stamp duty on account of the sale deed being undervalued, the Collector, vide his order dated 17.07.2014, directed the petitioner to affix the stamp duty of ₹1,84,800/- for making the deficiency good. The said order was challenged by the petitioner by way of an appeal, which was dismissed on 12.08.2015, maintaining the order of the Collector.

Counsel for the petitioner has submitted that the reference was made by the Sub Registrar on 13.04.2014, after a period of 2 years of the execution of the sale deed. He has relied upon an order passed by this Court in the case of **The Hisar Shiv Shakti Co-operative House Building Society Limited Hisar vs. State of Haryana & others**, CWP No.7530 of 2015, decided on 12.01.2016, to contend that after registration of the sale deed, the Sub Registrar becomes *functus officio* and does not have the power to make the reference in terms of Section 47-A(3) of the Indian Stamp Act, 1899 (hereinafter referred to as the “Act”).

The respondents have filed reply in which it is averred that the reference was received by the Collector from the office of the Sub Registrar under Section 47-A(3) of the Act.

It has been held by this Court in **The Hisar Shiv Shakti Co-operative House Building Society Limited Hisar's case (supra)** that after registration of the sale deed, the Sub Registrar becomes *functus officio* and is not competent to make a reference in terms of Section 47-A(3) of the Act. Reference was also made to the decision of this Court in the case of **Pankaj Gupta and others vs. State of Haryana and others**, 2014(2) PLR 17.

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No judgment to the contrary has been cited by the counsel for the respondents.

Thus, in view of the judgment passed by this Court in **The Hisar Shiv Shakti Co-operative House Building Society Limited Hisar's case (supra)**, the present writ petition is hereby allowed and the impugned orders are set aside being illegal.

July 21, 2016
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(Rakesh Kumar Jain)
Judge