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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.651 of 2013 (O&M)
Date of decision:22.04.2016

M/s Rajshree Steels Pvt Ltd. …Petitioner

Versus

State of Punjab and others …Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Pawan Kumar, Sr. Advocate, with
Mr. Abhimanyu Batra, Advocate, for the petitioner.

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

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Rakesh Kumar Jain, J.

The petitioner is a private limited company, purchased 168 kanals of agricultural land, situated in village Rahaun, Tehsil Khanna, District Ludhiana, for a sale consideration of ₹1,68,00,000/- vide sale deed dated 30.11.2005, registered in the office of the Sub Registrar, Khanna. The Sub-Registrar impounded the sale deed on the ground of deficiency of stamp duty and referred it to the Collector, Ludhiana vide its letter dated 31.01.2006, alleging that the land in question falls in Block-A of village Rahuan which is valued @ ₹12 lacs per acre and not in Block-B which is va00lued at ₹8 lacs per acre. According to the Sub-Registrar, the sale consideration for the land in question should have been of ₹2,52,00,000/- and as such, there was deficiency of stamp duty of ₹7,56,000/-. The Collector, Ludhiana, vide its letter dated 06.06.2007, ordered for recovery of ₹2,95,89,840/- on the ground that the market value of the property in question was ₹3,400/- per square yard. The order of the Collector was challenged by the petitioner by way of statutory appeal before the Divisional Commissioner who, vide his order dated 08.04.2008, set aside the order of the Collector and remanded the case back for a decision afresh. After the remand, the Collector, Ludhiana again passed the same order on 27.08.2008. The petitioner challenged the order dated 27.08.2008 before the Divisional Commissioner. However, the appeal was dismissed on 30.11.2011 and hence, the present petition has been filed in order to assail the validity of the orders dated 27.08.2008 passed by the Collector and dated 30.11.2011 passed by the Divisional Commissioner.

Counsel for the petitioner has submitted that the nature of the land was agricultural when it was purchased by the petitioner, the petitioner has paid the exact stamp duty and registration charges and it cannot be asked to pay the deficient stamp duty on the basis of change of nature of the land subsequently, as observed by the authorities below. In support of his submissions, he has relied upon two decisions of this Court in the cases of **Sohna Rocky Realtors Pvt. Ltd. and others vs. State of Haryana and others,** CWP No.17444 of 2013, decided on 21.08.2015, **Rajender and others vs. State of Haryana and others,** CWP No.17510 of 2013, decided on 15.12.2015 and a Division Bench judgment of the Supreme Court in the case of **State of**

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U.P. and others vs. Ambrish Tandon and another, 2012(1) R.C.R. (Civil) 865.

On the other hand, counsel for the respondents has submitted that while remanding the case by the Divisional Commissioner on 08.04.2008, direction was issued that the rate of the property in question may be fixed after visiting the spot and if only some portion of the land in question falls in category `A', then only that portion should be assessed at the rate fixed for that land for the purpose of affixing the stamp duty and registration fee. Thereafter, the Collector ordered the Tehsildar, Khanna to report about the spot. Tehsildar, Khanna ordered Halqa Patwari to visit the spot and report. The Halqa Patwari visited the spot and reported that the Sunder City Colony is situated at Samrala Road, Khanna and its 4-½/5 acre front is abutting on Samrala Road, which area can be considered as commercial and the remaining area as residential. Thereafter, Tehsildar, Khanna prepared his report in view of the report of the Halqa Patwari. It is also averred that the Collector, Ludhiana also personally inspected the spot and passed order dated 27.08.2008 that the value of the area of 21 acres comes to ₹34,55,76,000/-, whereas the sale deed has been got registered of the value of ₹1,68,00,000/- and, thus, the sale deed has been registered on the less value of ₹32,87,76,000/- and the Collector, vide his order dated 27.08.2008, directed the Sub-Registrar to recover ₹2,95,89,840/- as stamp duty from the purchaser. It is also alleged that the petitioner had purchased the property for development of colony and not for the agricultural purposes and at the spot, the colony is developed, namely, Sunder City Colony, Samrala Road, Khanna.

I have heard learned counsel for the parties and examined the available record.

There is no denial to the fact that the land in question is recorded in the sale deed as well as in the jamabandi of the relevant years as agricultural/irrigated. The issue involved is thus as to whether the petitioner can be asked to pay more stamp duty on the ground that after purchasing the agricultural land the same has been converted into a residential colony.

The answer to this question is not farfetched because it has been held by the Supreme Court in **Ambrish Tandon's case (supra)** that the nature of user is relatable to the date of purchase and is relevant for the purpose of calculation of stamp duty and not with the subsequent user. The said judgment has been followed by this Court in **Sohna Rocky Realtors Pvt. Ltd.'s case (supra)** and in **Rajender's case (supra)**, holding that the nature of the land has to be seen at the time of its purchase and not as to how it has to be put to use thereafter.

In view of the law laid down by the Apex Court and followed by this Court, the present petition is hereby allowed and the impugned orders passed by the authorities below are set aside being totally illegal.

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