IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4651 of 2015
Date of Decision:13.05.2016

Harbans Singh and another ...Petitioners

Vs.

State of Punjab and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Deepak Gupta, Advocate,
for the petitioners.

Mr. Nilesh Bhardwaj, DAG, Punjab.

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RAKESH KUMAR JAIN, J. (Oral)

The petitioners had purchased a plot measuring 5 bigha 0 biswa comprising in Khasra No.4848min, Khewat/Khatauni No.990/5346, situated at Patti Jhutti Bathinda, vide sale deed No.837 dated 27.4.2011 from Ratandev Singh through his power of attorney/wife Sharandeep Kaur Dhaliwal. The Sub Registrar, Bathinda objected to the value of the property and referred the case to the Collector. The Collector, vide his order dated 30.4.2013 (Annexure P-4), ordered the petitioners to pay deficient stamp duty of ₹3,52,448/- and registration fee of ₹14,400/-, total ₹3,66,848/-, on the value of ₹44,05,600/- with simple interest @ 12% per annum from the date of registration of sale deed till the amount is deposited, on the ground that the sale deed has been registered @ ₹37965/- per biswa instead of ₹59659/- per biswa which was the collector rate at that time. The statutory

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appeal filed by the petitioners was dismissed by the Commissioner, Faridkot Division, Faridkot vide his order dated 28.5.2014. The petitioners have thus challenged both the orders by way of this petition in which after notice, the respondents have filed reply in which they have averred that a fresh survey of the land in question was got done by respondent No.4 and the Patwari Circle has submitted the report dated 29.7.2015 that the land in question falls outside the municipal limits of Bathinda, therefore, it has to be assessed @ ₹37,965/- per biswa as per the collector rate at Sr. No.002/0229 and its total value comes to ₹37,96,500/- and though the petitioners were required to pay deficient stamp duty and registration fee on ₹22,36,500/-, they are required to pay the deficient stamp duty of ₹1,78,920/- along with deficient registration fee of ₹14,400/-, total ₹1,93,320/-, along with 12% interest from the date of execution of sale deed.

On the last date of hearing, the case was adjourned with direction to learned State Counsel to show that under which provision, the respondents have passed the orders regarding interest.

Counsel for the State has referred to Section 47-A of the Indian Stamp Act, 1899, as applicable to the State of Punjab (hereinafter referred to as the "Act") in which Section 47-A(2) provides for recovery of the amount of deficient stamp duty along with interest @ 12% per annum.

Counsel for the petitioners has submitted that the petitioners are ready to pay ₹1,93,320/- as per the case set up by the respondents but they may not be asked to pay 12% interest from the date of execution of sale deed because it was the fault of the respondents who had earlier assessed the value of the sale deed on the basis of ₹59,659/- per biswa, considering the

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land in question to be within the municipal limits though it was outside the municipal limits of Bathinda.

In reply, counsel for the respondents has submitted that though there was a mistake but it was lateron corrected in favour of the petitioners and now the petitioners have been asked to pay the deficient stamp duty on the basis of the collector rate of ₹37,965/- per biswa and the interest is being charged in terms of the statutory provision of Section 47-A(2) of the Act.

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

The only issue involved in this case is as to whether the petitioners are liable to pay the interest from the date of sale deed because they are ready and willing to pay the deficient stamp duty, now assessed after re-survey by the Registrar in which it has been found that the land in question is situated outside the municipal limits and the collector rate applicable to the said land was ₹37,965/- per biswa on the basis of which the petitioners have to pay ₹1,93,320/- which would include the deficient stamp duty and the registration charges.

Section 47-A(2) of the Act provides for charging the interest @ 12% per annum from the date of registration of sale deed. The issue with regard to rates which were wrongly applied by the Collector considering the land in question to be within the municipal limits has since been corrected and the petitioners are ready and willing to pay the corrected rates, therefore, the petitioners' prayer cannot be allowed not to pay the interest as the deficiency in any case has been found of the sum of ₹1,93,320/- which should have been paid by the petitioners at the time when the sale deed was

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registered.

Thus, in view of the aforesaid facts and circumstances, the present petition is disposed of with a direction that the petitioners shall pay the deficient stamped duty of ₹1,93,320/-, agreed by them, along with 12% simple interest from the date of registration of the sale deed.

May 13, 2016 **(RAKESH KUMAR JAIN)**
renu/vinod* **JUDGE**