

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.964 of 2001

Date of Order: 31.08.2017

Ved Parkash and others

..Petitioners

Versus

Atma Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.C.Arora, Advocate,
for the petitioners.

Mr. A.K.Khunger, Advocate,
for respondent no.3.

Mr. Pawan Sharda, DAG, Punjab,
for respondent no.4-State.

ANIL KSHETARPAL, J (Oral)

C.M.No.6288-CII of 2016

Prayer in this application is for condonation of delay of 431 days in filing the application for setting aside order dated 15.01.2015.

For the reasons mentioned in the application, which is supported by an affidavit, the delay of 431 days in filing the application for setting aside order dated 15.01.2015 is condoned.

Application is allowed.

C.M.No.6289-CII of 2016

Prayer in this application is for re-calling of order dated 15.01.2015.

In view of the facts asserted in the application, which is supported by an affidavit, the order dated 15.01.2015 is re-called and the appeal is restored to its original number.

Civil Misc. application is allowed.

With the consent of the parties, the main case is being taken up for hearing today itself.

C.R.No.964 of 2001

Petitioners are in revision petition against order passed by the District Collector dated 24.03.1998, confirmed by Additional District Judge, vide order dated 12.01.2001.

Petitioners purchased a shop measuring 6x21 feet situated within municipal limits, Sadar Bazar, Muktsar on 31.10.1994 against the price of Rs.75,000/-. The sale deed was registered. Thereafter, one Atma Singh, respondent herein filed a complaint asserting that the price of the shop was Rs.6 lacs and, therefore, proper stamp duty has not been affixed.

On the basis of the aforesaid complaint, the Collector held an enquiry. Collector during the course of enquiry sought a report from local Tehsildar as also Executive Engineer, PWD B&R. Both these officials reported that the price of the shop is much less than Rs.75,000/- Petitioners-vendees also produced on record copies of the sale deeds of shops in the same market which were large in size as compared to shop in question proving that the market value of the shop was around Rs.75,000/- only. However, learned Collector relied upon a report of the retired SDO (Canal) and assessed the value of the shop at Rs.6 lacs.

Petitioners filed an appeal before the learned Additional District Judge, Muktsar. Learned Additional District Judge also dismissed the appeal.

I have heard counsel for the parties at length and with their able assistance gone through the record of the case.

It is not in dispute that Tehsildar as also the Executive Engineer, PWD B&R had submitted a report assessing the value of the shop to be less than Rs.75,000/- Both were government officials. Tehsildar, in fact is the registration authority in the district. He deals in registration of the sale deeds daily.

Petitioners-vendees further produced in evidence copies of the sale deeds Ex.D1 to Ex.D4, with respect to shops situated in the same market. The sale price of these shops was ranging between Rs.75000/- to Rs.85000/-. Some shops were of much larger size as compared to the shop in dispute.

Learned Collector as well as learned Additional District Judge, Muktsar, committed a serious error in relying upon a report submitted by a private official who inspected the shop on 26.12.1995. A report of a private person cannot be given preference to the report of the government officials.

Learned Collector while exercising powers under Section 47A of the Stamp Act, 1899 is required to return a firm finding of fact that the value of the shop was substantially at variance with the price at which sale deed has been registered. Without recording a firm finding of fact, the Collector would not be justified in exercising the powers under Section 47A of the Stamp Act, 1899.

In this case, the State government or the private respondent failed to produce any unimpeachable evidence to prove the price of the shop to be more than Rs.75,000/-

In view of the discussion made above, the order passed by the Collector, dated 24.03.1998 and confirmed in appeal by the learned Additional District Judge, Muktsar, vide order dated 12.01.2001, are set

aside. The revision petition is allowed.

August 31, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No