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

CWP-12931-2014
Date of Decision : 21.03.2017

Shivjot Developers and Builders Ltd., Mohali ....Petitioner

versus

State of Punjab and others ....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Ravi Malik, Advocate
for the petitioner.

Ms. Anu Pal, Asstt.A.G., Punjab.

M.M.S. BEDI, JUDGE (ORAL)

Petitioner firm claiming itself to be developer and builder running its business in the name of Shivjot Developers and Builders Pvt. Ltd., Mohali, has filed the present writ petition under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of *certiorari* setting aside the notice dated 08.05.2014 Annexure P-1 requiring the petitioner to pay interest at the rate of Rs.12 per cent per annum amounting to Rs.10,52,844/- on account of the ten sale deeds mentioned in the heading of the writ petition, in the Treasury, by 16.05.2014.

Petitioner had filed writ petition CWP No. 18515 of 2009 seeking quashing of order dated 26.10.2008 passed by the Collector, SAS Nagar, Mohali, upheld by the Commissioner vide order dated 17.03.2009 whereby the petitioner has been directed to deposit the deficient stamp duty of nine sale deeds of Rs.2,80,000/- along with interest in respect of land measuring 2 bigha 8 biswa situated within the revenue e-state of village Khanpur, Tehsil Kharar which was purchased by the petitioner vide sale deed dated 04.01.2006. The writ petition of the petitioner was dismissed vide order dated 15.03.2011. However, it was directed that petitioner would make the payment of deficient stamp duty and registration charges within a period of three months from the date of receipt of certified copy of the order and no additional interest with effect from the depositing would be payable in case actual amount is paid within a period of three months. The operative part of order Annexure P-2 dated 15.03.201 reads as follows:-

> *"(8). However, keeping in view of the fact that the petitioner(s) has/have approached this Court in the year 2009, it is directed that if the petitioner(s) make good the deficiency of stamp duty and registration charges within a period of three months from the date of receipt of a certified copy of this order, no additional interest w.e.f. 01.12.2009 till the actual deposit of the amount shall be charged from him/them."*

In the reply filed, the stand of the State is that admittedly the petitioner has deposited the amount of deficiency in stamp duty for different sale deeds executed on different dates between 11.08.2011 to 08.09.2011. However, there was specific direction by this Court that if the amount is deposited within a period of three months from the date of receipt of certified copy of the orders, only in that case, the interest was directed to be waived and that too with effect from 01.12.2009. However, in the present case, the petitioner has avoided to mention any thing regarding the date when copy of the order was received as such the petitioner is liable to pay the amount of interest for the period from 01.12.2009 onwards.

Learned State counsel has contended that the petitioner was liable to pay the deficient stamp duty before 01.12.2009 but the challans Annexure R-1 to R-10 indicate that the amount has been deposited on different dates after 01.12.2009 as such the petitioner will not be entitled to the benefit of the concession given by the Court. The claim of the State is that the petitioner in said circumstances, is liable to pay the interest as originally determined amounting to Rs.10,52,844/- calculated at the rate of 12 per cent per annum.

After hearing learned counsel for the petitioner and the learned State counsel, it appears that the judgment having been passed by this Court in favour of the petitioner on 15.03.2011, three months expired in the months of June, 2011. The payments were made by the petitioner by September, 2011. Giving the concession of the period in which the petitioner might have obtained the copy, there is apparently delay of about two months in deposit of the deficient Court fee.

I have considered the facts and circumstances of the case and I am of the opinion that no doubt there is slight delay in compliance of the order passed by this Court on 15.03.2011. The provisions of Section 148 of the Civil Procedure Court lay down that when any period is fixed or granted by the Court for doing any act, prescribed or allowed, the Court may in its discretion enlarge the period for about 30 days even though the period originally fixed or granted may have expired. Giving the concession of said one month, it appears that there is delay of approximately one month in complying with the directions of this Court dated 15.03.2011. Since the petitioner has to face the penal consequences on account of non-compliance of the orders of the Court for approximately a period of two months whereas discretion vest in a Court to extend the period by 30 days only as per Section 148 CPC, I deem it appropriate in the interest of justice to penalise the petitioner for delay in deposit of the deficient stamp duty for one month. The said cost is assessed at Rs.2 lakh.

The petition is disposed of with a direction to the petitioner to deposit a sum of Rs.2 lakh with the Assistant Collector, Kharar within a period of one month. It is again made clear that in case the amount is not deposited and the order is not complied with within a period of one month, the writ petition will be deemed to have been dismissed.

(M.M.S. BEDI)
JUDGE

21.03.2017
Neha

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No