IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CWP No.23513 of 2011 (O&M)
Date of decision: September 20, 2017

Bimla Devi and another ...Petitioners

Versus

State of Punjab and others ...Respondents

CORAM: **HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. Vikram Singh, Advocate for the petitioners.
Mr. H.S. Sethi, Addl. Advocate General, Punjab.

Rajan Gupta, J.

Petitioners have prayed for a writ in the nature of certiorari for quashing order dated 6.8.2009 (Annexure P-4), passed by District Collector, Muktsar as well as order dated 15.4.2010 (Annexure P-6), passed by Commissioner, Ferozepur Division, Ferozepur, whereby petitioners have been ordered to pay Rs.1,22,91,890/- as Stamp/Registration Fee under Section 47-A of the Indian Stamp Act and interest thereon.

Learned counsel for the petitioners submits that the transfer in favour of petitioners was genuine and legal. There is nothing on record to suggest that property is not being used for charitable purposes or that same is being used for any other purpose. Thus, orders passed by the authorities below deserve to be set-aside.

Plea has been opposed by the learned State counsel. According to him, Audit Party had pointed out that the transfer deed does not specify the purpose for which the property was transferred, thus, stamp duty @ 3% was rightly levied. He submits that there exist two factories and a house in the property in question and in the Trust deed, the purpose the property is to be used, has not been mentioned, in order to get exemption from payment of stamp duty. Therefore, the authorities below have rightly directed the petitioners to pay the stamp duty/ registration fee with interest.

Brief factual matrix of the case is that one Prahlad Kumar, being owner of the property in question, transferred the same to the petitioners, vide registered sale deed 28.7.2006. Later on, on an objection raised by the Audit Party, proceedings under section 47-A of the Indian Stamp Act were initiated against the petitioners. Vide order dated 30.11.2007, the Collector, Muktsar ordered recovery of Rs.1,16,37,584/- from the petitioners. Petitioners preferred appeal before Commissioner, Ferozepur Division, Ferozepur, who remanded the appeal to the same authority on 20.11.2008 for deciding the case afresh. Vide order dated 6.8.2009, Collector, Muktsar again ordered recovery of the amount in question. Petitioners filed appeal which was dismissed on 15.4.2010 by the Commissioner. It observed that simply by mentioning the word 'charitable' in the transfer deed, it cannot be exempted from stamp duty.

I find no infirmity with the orders passed. It is evident that the transfer deed dated 28.7.2006 does not specify the purpose, for which the property was transferred. On the basis of report of the Audit Party, the authority had asked the petitioners to pay the additional stamp duty @ 3%. I find no scope for interference in writ jurisdiction. The petition is without any merit and same is hereby dismissed.

(RAJAN GUPTA)
JUDGE

September 20, 2017
'Rajpal'

Whether speaking / reasoned Yes / No

Whether Reportable: Yes / No