IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No.18317 of 2015
Date of decision : October 12, 2017

Lakhwinder Singh

.... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. L. S. Mann , Advocate
for the petitioner.

Ms. Sunint Kaur, AAG.,Punjab.

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RAKESH KUMAR JAIN, J (oral).

The petitioner purchased 1 Kanal 17 2/3 Marlas of land for a consideration of Rs.18 lacs vide registered sale deed dated 1.10.2009 from Babaljit Kaur and Harpreet Kaur daughters of Gurdip Singh.

It was specifically mentioned in the sale deed that the purchased area is situated outside the Municipal limits of Sirhind. The petitioner received a notice from respondent No.2 in the year 2012 asking him to pay the deficient stamp duty. The petitioner appeared before respondent No.3 and brought to its notice that the land purchased by him was outside the Municipal limits, therefore he is not liable to pay the deficient stamp duty. However, the Collector, while exercising his power under Section 47-A of the Stamp Act, 1899 (hereinafter referred to as 'the Act') (applicable to the State of Punjab) asked the petitioner to pay Rs.74,950/- towards the deficient stamp duty on the ground that the property in question was meant for residential purpose and was situated within the Municipal limits. The petitioner filed an appeal against the order of the

Collector under Section 47-A (4) of the Act but it was dismissed on 28.1.2015, hence the present writ petition has been filed.

Counsel for the petitioner has submitted that it has been noticed by the Collector in his order that the Sub Registrar, vide its report No. 925/RC dated 11.10.2012 had stated that report was sought from the patwari halqa and as per the report of patwari halqa wasika no. 2759 was got registered on 1.10.2009 and at that time 6 araji khasra no.65//17/2 (2-0) was situated outside the limit of MC but as per the orders of Deputy Commissioner bearing no. Special-1 dated 25.5.2011 as per the copy of jamabandi after 25.5.2011 the above said area has been shown to be situated within the limits of MC vide sr.no.3619/SK dated 25.5.2011.

Counsel for the respondents has also referred to para No.7 of the reply in which following averments are made:-

> "*That in reply to para No.7 of the petition, it is submitted that the Deputy Commissioner, Fatehgarh Sahib vide order dt.25.5.2011 had not declared the area which is the subject matter of the sale deed within the municipal limits but he only directed the Tehsildar Fatehgarh Sahib to make the entry regarding the jurisdiction of Municipal Committee Sirhind/Fatehgarh Sahib in the revenue record which was not entered by the Halqa Patwari inadvertently. It is worth mentioned here that vide letter dt. 25.5.2011, no limits of Municipal Committee Sirhind/Fatehgarh Sahib was extended but this order only made to enter in the revenue record.*"

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that the respondents have not come forward with a clear stand because in the order of the Collector it is mentioned that the Sub Registrar has obtained the report from the halqa partwari about status of the property in question and halqa patwari had reported that on the date when the sale deed was registered on 1.10.2009 the land in question was not situated within the Municipal limits and by virtue of the order passed by the Deputy Commissioner dated 25.5.2011 the said area has been shown to have been situated within the Municipal limits.

In view of the aforesaid and also the fact that the petitioner, when purchased the property has specifically mentioned in the sale deed that the area in question stands outside the Municipal limits. This Court is of the view that the respondents have wrongly found the deficiency in stamp duty on the ground that the property in question falls within the Municipal limits.

Consequently, the present petition is allowed and the impugned orders are set aside.

(RAKESH KUMAR JAIN)
JUDGE

October 12, 2017
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Whether speaking/reasoned Yes/No
Whether Reportable Yes/No