

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 18508 of 2016

Date of decision : September 4, 2017

Rajdeep Singh and another

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Ms. Nupur Chaudhary, Advocate
for the petitioners.

Mr. Saurabh Mohunta, DAG., Haryana.

RAKESH KUMAR JAIN, J (oral).

This petition is filed for quashing the impugned order, passed by the Collector dated 25.2.2015 and the Commissioner dated 18.7.2016 respectively, by which the petitioner has been asked to pay deficient stamp fee and the registration charges.

In short, counsel for the petitioners has submitted that petitioner No.1 executed two sale deeds dated 5.6.2012, at the rate of Rs.14 lacs per acre, as per the Collectors' rate prevailing in the year 2012-13 and petitioner No.2 also executed two sale deeds dated 29.6.2011, at the rate of Rs.12 lacs per acre prevailing in the year 2011-12.

After the sale deeds were executed and registered, the Registrar issued notice to the petitioners under Section 47-A (applicable to the State of Haryana) of Indian Stamp Act, 1899. The petitioners replied to the show cause notice, however, the Collector, while relying upon the agreement dated 2.9.2011, purported to have been entered into by the

vendor of the petitioners, namely, Kulwant Kaur with Ramtej Singh husband of petitioner No.2 and father of petitioner No.1, in which the sale consideration was mentioned as Rs. 27 lacs per acre. The said agreement to sell has allegedly been proved by Karan Singh, deed writer, Tehsil Tohana by producing his register in which the agreement to sell was entered at S.No. 223 dated 2.9.2011. The Collector thus, presumed that the actual value of the property in question, prevailing in the year 2011-12, was Rs. 27 lacs per acre, which has been under valued by the parties to the sale deed at Rs.12 lacs in the year 2011-12 and Rs.14 lacs in the year 2012-13 and as such he found that they have tried to avoid the true value of the property in question in the sale deed in order to escape the payment of stamp duty as well as registration charges. Accordingly, aggrieved against the said order, the petitioners filed an appeal before the Commissioner but to no success. Hence, they have approached this Court.

Learned counsel for the petitioners has submitted that value mentioned of the land in question in the area, in the agreement to sell cannot be made the basis for the purpose of assessment of the value and payment of stamp duty at the time of execution of sale deed. He has relied upon a judgment rendered by the Supreme Court in **State of Rajasthan and others Vs. Khandaka Jain Jewellers (2007) 14 SCC 339** in which the Court has held that the market value of the instrument has to be seen at the time of execution of the sale deed and not at the time when the agreement to sell was entered into.

Counsel for the respondents has not been able to cite any law to the contrary except for relying upon the agreement to sell dated 2.9.2011. However, after receiving the instructions from Mahabir Singh,

Naib Tehsildar, Jakhal, has fairly submitted that the Collectors' rate prevailing in the year 2011-12 was Rs. 12 lacs and in the year 2012-13 Rs. 14 lacs.

I have heard learned counsel for the parties, perused the record and after examining the same, I am of the considered opinion that there is a total fallacy in the approach of the Collector as well as Commissioner in asking the petitioner to pay a sum of Rs. 6,67,707/- on the basis of agreement which was not even entered into by the petitioner with their vendor. The said agreement to sell was entered into by the vendor with some body else, may be the husband of the petitioner No.2. More over, the Supreme Court in Khandaka Jain Jewellers's case (supra) has categorically held that the value of the land has to be seen at the time of execution of the sale deed and not at the time of agreement. Thus, in my considered opinion, the present petition is meritorious and hence the same is allowed and the impugned orders are set aside.

(RAKESH KUMAR JAIN)
JUDGE

September 4, 2017
archana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No