IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19479 of 2015
Date of Decision.01.05.2017

Daljit Kaur ....Petitioner

Vs

State of Punjab and others ....Respondents

Present: Mr. R.S. Rangpuri, Advocate
for the petitioner.

Ms. Monica Chibber Sharma, DAG, Punjab.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The petitioner has challenged the impugned orders dated 24.09.2013 (Annexure P-3) passed by respondent No.3, the Collector-cum-ADC, Muktsar, District Sri Muktsar Sahib and 21.05.2015 (Annexure P-5) of the Commissioner, Ferozepur Division, Ferozepur, calling upon the petitioner to pay additional sum of ₹1,22,212/- on account of deficiency in stamp duty and registration fee in respect of sale deed No.183 dated 16.04.2010 in proceedings initiated under Section 47-A of the Indian Stamp Act, 1899 on the ground that the petitioner had purchased the old constructed shop measuring 1 marla 2 sarsai i.e. about 375 sq. feet situated within the municipal limits of Municipal Council, Muktsar from one Lakhvir Singh son of Jugraj Singh, being attorney of Kulwinder Kaur wife of Lakhvir Singh, for a total sale consideration of ₹6,50,000/- as per Collector rate.

The aforementioned sale deed was registered as indicated above on 16.04.2010. However, after one year on the basis of complaint made by some family member i.e. Bhagwant Singh son of Jagir Singh to the SDM, the petitioner was called upon for initiation of proceedings. The petitioner filed reply dated 09.06.2011 (Annexure P-2) to the show cause notice and explained everything regarding construction of shop being very old and gate of the shop is made of wooden and requested for dropping of the proceedings.

The argument of the petitioner is that the Collector on the basis of the report of SDM regarding the market value of the shop, assessed the market value of the shop at ₹20 lacs and called upon the petitioner to pay the aforementioned amount of ₹1,22,213/- i.e. deficiency of total fee of ₹94,500/- i.e. ₹81,000/- of stamp duty plus ₹13,500/- as registration charges and interest of ₹27,713/- @12% w.e.f. 16.04.2010 to 24.09.2013 i.e. for a period of 892 days.

In support of his contention, learned counsel appearing for the petitioner relies upon the judgments of this Court in ***"Chamkaur Singh V/s State of Punjab" AIR 1991 Punjab and Hayana 26 and "State of Punjab V/s Mohabir Singh" 1996 (1) RRR 588*** to contend that independent report cannot be a basis of finding of the Collector as the Collector has to ascertain the price by leading evidence. Moreover, the alleged report of the SDM is prepared at the back of the petitioner.

He further submits that the appeal filed against the same has also met with the same fate, therefore, the orders under challenge are bereft of any cogent reasoning, much less, compliance of established principles of law.

Per contra, Ms. Monica Chhibber Sharma, DAG, Punjab appearing on behalf of the respondents submits that the proceedings initiated by the SDM are based upon the market value of the land and by taking into consideration the constructed portion, assessed the same at ₹20 lacs, therefore, the orders under challenge are perfectly legal and justified and do not call for interference. In fact, it is a commercial property and the rate of the shop was enquired from the neighbouring shop keepers.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of learned counsel appearing for the petitioner, for, the Collector could not have taken the report of the SDM as the basis of determining the amount in view of the ratio decidendi culled out from the judgments referred to above. It is the bounden duty cast upon him to ascertain the evidence regarding market value after affording opportunity to rebut the same. In the absence of the same, the enquiry report prepared at the back of the petitioner cannot be relied upon.

The judgment rendered by Division Bench of this Court in ***Gauri Singla V/s State of Haryana and others 2009 (1) RCR (Civil) 293*** has actually laid down the criteria for assessing the market value for ascertaining the deficiency in the stamp duty. No explanation has come forth for taking the action on his own after a period of one year. The authorities are obligated to adopt the procedure prescribed under Section 47-A of the Indian Stamp Act and not in the manner and mode as indicated above.

In view of the aforementioned, the impugned orders under challenge are not sustainable in the eyes of law and the same are hereby set aside. The writ petition stands allowed.

(AMIT RAWAL)
JUDGE

May 01, 2017
Pankaj*

Whether speaking/reasoned Yes
Whether reportable No