

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.2042 of 2016 (O&M)
Date of decision: August 02, 2017

Gurcharan Dass

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. S.P. Arora, Advocate with
Mr. Himanshu Arora, Advocate for the petitioner.
Mr. Vikas Mohan Gupta, Addl. Advocate General, Punjab.

Rajan Gupta, J.(oral)

Pursuant to order dated 03.04.2017, learned State counsel seeks to place on record affidavit of Ranjit Kaur, Additional Deputy Commissioner (General), Shahid Bhagat Singh Nagar.

Challenge in the present petition is to order dated 14.07.2010, passed by Commissioner, Jalandhar Division, Jalandhar. Operative part of the order reads as under:-

“The Ld. counsel Mr. Toor argued that though the impugned order is placed on file, but the technical report of Executive Engineer, PWD B & R has not placed on file. What is the report, the facts of the same not elaborated in the orders. The copy of the report of the Executive Engineer, PWD, B & R be supplied to the petitioner. In case the orders of the ADC cum Collector are exactly based on the report of the Executive Engineer, PWD B & R, then the petitions stand dismissed, otherwise if there is any difference between the orders passed by the ADC cum Collector after due examine as well due opportunity to the petitioners, afresh orders be passed. Disposed of.”

It has been urged before the court that the order is non-speaking in nature. It does not take into consideration all the pleas raised by the petitioner. Same deserves to be set-aside.

A perusal of the order shows that it does not make any head or tale. The appellate authority has not assigned any reasons for coming to the conclusion that petitioner is liable to pay higher stamp duty. Though fresh report has been filed, pursuant to order dated 03.04.2017 passed by this court directing the Collector to reconsider the value of the property for the purpose of registration, taking into account Collector's rate in the year 2011 and costs of construction at the relevant time, this court is of the view that the same needs to be considered by the appellate authority. This court, thus, intends to remit the case to the same authority for decision afresh after considering pleas of both the parties as well as the report/affidavit, which has been placed on record today.

Prayer for remand is not opposed by the State counsel.

Under the circumstances, the impugned order is hereby set-aside. The matter is remitted to the same authority for decision afresh after affording opportunities of hearing to the parties.

Allowed in these terms.

(RAJAN GUPTA)
JUDGE

August 02, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No