

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

1. **CWP No.22872 of 2014 (O&M)**
Date of Decision: 05.12.2017

PARAMJIT KAUR Petitioner
Vs.
STATE OF PUNJAB AND OTHERSRespondents

2. **CWP No.22883 of 2014(O&M)**

BANSI LAL AND OTHERS Petitioners
Vs.
STATE OF PUNJAB AND OTHERSRespondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Vikas Mehsempuri, Advocate,
for the petitioners in both the petitions.
Mr. Abhay Pal Singh Gill, AAG, Punjab.

RAKESH KUMAR JAIN, J.

This order shall dispose of two petitions bearing CWP No. 22872 of 2014 and CWP No. 22883 of 2014 as the issue involved in both the petitions is common. However, for the sake of convenience, the facts are being extracted from CWP No. 22872 of 2014.

In brief, the petitioner had purchased the agricultural land measuring 4 Kanal and 00 Marla vide Vasika No. 901 dated 20.07.2011. However, the matter was referred by the Audit Department directly to the Collector, District Fatehgarh Sahib for proceeding against the petitioner under Section 47-A of the Indian Stamp Act, 1899, as applicable to the State of Punjab (hereinafter referred to as 'the Act') alleging the deficiency of stamp duty on the instrument of sale. The Collector, before proceeding against the petitioner, had tried to serve the petitioner but recorded in his order dated 29.04.2013 that "*as per the report of the process server, the exact address of*

the buyer was not known. Thereafter, the buyer was issued the notice for his appearance in the Court on 29.04.2013 by way of mushtri munadi and pasting of summons, however, inspite of all this, the buyer has not put in his appearance.” The petitioner was, thus, proceeded against *ex-parte* and the Collector, vide impugned order dated 29.04.2013, directed the petitioner to deposit the deficient stamp duty of ₹2,89,000/-.

Aggrieved against the said order, the petitioner filed the statutory appeal which was dismissed on 05.02.2014 without recording any finding as to whether the petitioner was rightly proceeded against *ex-parte*.

In reply, it is averred that the petitioner was served through proclamation and publication (*mushtri munadi*). In the said notice of proclamation, it is specifically recorded that “*the parties are not residing in the Village. Therefore, it is difficult to call the purchaser through summons etc. Therefore, for calling the parties by sending the notice of proclamation (mustari munadi) and advertisement (chasbandgi), it is being written that public announcement and advertisement be made in the village Khamano Kamali and report of the same be sent to the undersigned Court before 29.04.2013.*” Accordingly, the respondents have averred that vide rapat No. 1066 dated 11.04.2013, public announcement (*mushtari munadi*) was done in the Village Khamano Kalan.

Learned counsel for the petitioner has submitted that the petitioner is a resident of Ward No. 9, Khamano, Tehsil Khamano, District Fatehgarh Sahib, therefore, there was no reason for the respondents to have made the publication/proclamation in Village Khamano Kalan. In reply thereto, learned State counsel has submitted that Ward No. 9 is a part of Village Khamano Kalan.

Be that as it may, the fact remains that the petitioner has not been served personally for appearance before the Collector and the service has allegedly been effected by the respondents only by way of public announcement and as a result thereof, the petitioner has been proceeded against *ex-parte*, without projecting his case before the Collector who has imposed a stamp duty of ₹2,89,000/- on account of the deficiency, that too on the basis of the audit report, which was sent after a delay of more than 1 ½ years.

Thus, keeping in view the fact that the petitioner has been wrongly proceeded against *ex-parte* as she was not personally served, therefore, the present petitions are hereby allowed and the impugned orders passed by the Collector and Divisional Commissioner against the petitioner(s) are set aside. The matter is remanded back to the Collector to decide it again by passing a speaking order after taking the reply of the petitioner(s) and by giving them opportunity to lead evidence in accordance with law.

The parties are directed to appear before the Collector on 20.12.2017.

December 5, 2017

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(RAKESH KUMAR JAIN)
JUDGE

Whether speaking / reasoned :	✓ Yes / No
Whether Reportable :	Yes / No