

CWP No.18129 of 2017

[1]

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

**CWP No.18129 of 2017
Date of decision:17.08.2017**

Phooli Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. ADS Jattana, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

The petitioner is aggrieved against the order dated 15.06.2015 of the Collector, Hansi, by which she has been asked to pay the deficient stamp duty, and the order dated 18.10.2016 of the Commissioner, Hisar Division, Hisar, by which her appeal has been dismissed.

In brief, Kapur Singh S/o Bhim Singh and Dayawanti W/o Kapur Singh sold a three-storey house bearing No.148A/17, measuring 526.17 sq. yards, to the petitioner for a consideration of ₹4,80,000/-. The Sub Registrar found deficiency in the stamp duty and accordingly, the Collector passed the order on 24.10.2001 to recover ₹3,63,940/- as deficient stamp duty. The said order was challenged in appeal before the Divisional Commissioner, who remanded the matter back on 16.12.2006 with a direction that the petitioner be served with a notice and price of the land be fixed after spot inspection. The Collector, after remand, has recorded in his order dated 15.06.2015 that the case was received back on 11.06.2007 and, thereafter, both the buyer and the

seller were called through summons. The petitioner filed her Vakalatnama and the date was fixed for filing reply and despite affording several opportunities, she did not file her reply and on 24.12.2013, because of the non-appearance of the petitioner, *ex-parte* proceedings were initiated against her. The Halqa Patwari submitted the report that as per the spot inspection regarding Vasika No.2013 dated 31.12.1997, the suit property is situated on the main road of Gas Agent Road and is commercial area. The petitioner has a shop on the ground floor and is residing on the upper portion. The collector rate of this land was ₹1,200/- per sq. yard but the Executive Engineer, PWD, after verification, fixed the price of the land @ ₹28,28,718/- as it is situated on the main road and is a three storied house. Accordingly, the Collector fixed the value of the suit property @ ₹28,28,000/-, which was otherwise registered for ₹4,80,000/-, and thus found the deficient stamp duty of ₹3,63,940/-, which was asked to be deposited within 30 days.

Aggrieved against the said order, the petitioner filed statutory appeal before the Divisional Commissioner and it was argued by the counsel for the petitioner that as per the collector rate @ ₹1,200/- per sq. yards, the total value of the suit property comes to ₹6,31,404/- being 526.17 sq. yards, for which she is ready and willing to pay the deficient stamp duty but it is submitted that it cannot be assessed on the amount of ₹28 lacs.

On the other hand, it was noticed by the Appellate Court that the suit property is situated on the land which was declared as a commercial area in the year 1997 and value of the land has rightly been assessed @ ₹28,28,718/- and, thus, keeping in view the aforesaid facts and circumstances, the appeal was dismissed.

Counsel for the petitioner has submitted that after registration of the sale deed, the Registrar becomes *functus officio*.

I do not agree with this argument because initially, the Collector passed the order on 24.10.2001 for recovery of ₹3,63,940/-, which was challenged by the petitioner by way of appeal before the Divisional Commissioner. The said appeal was allowed on 16.12.2006 and the matter was remanded back to decide a particular issue. There was no such issue raised by the petitioner and he was satisfied with the order of remand but after the remand, despite affording several opportunities, she did not avail any of the opportunities for filing reply and also did not join the spot inspection rather, after filing the power of attorney, allowed herself to be proceeded against *ex-parte*. Thereafter, the Collector passed the order against the petitioner, which has been rightly been upheld by the Divisional Commissioner as he did not find any error in the same because no reason has been given by the petitioner for not contesting the litigation after the remand order.

In view of the aforesaid, I do not find any reason to interfere in the present petition and hence, the same is hereby dismissed in limine, though without any order as to costs.

August 17, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned : Yes/No
Whether reportable : Yes/No