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

CWP No.22417 of 2016
Date of Order: 25.10.2017

Mangla and Anr.

....Petitioners

Versus

State of Punjab and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Rajeev Kawatra, Advocate for the petitioners.
Mr. Abhaypal Singh Gill AAG, Punjab.

RAKESH KUMAR JAIN, J (ORAL)

The petitioners have challenged the demand notice/order dated 25.11.2013 issued under Section 47-A of Indian Stamp Act, 1899 (applicable to the State of Punjab) whereby they have been asked to pay the deficient stamp duty of ₹2,03,252/- instead of actual payable stamp duty of ₹10,100/-.

In short, the petitioners purchased 5 marla of land at the rate of ₹2,86,000/- per marla by way of registered sale deed No.10938 dated 08.02.2012 and affixed stamp duty as applicable on the value of plot i.e ₹14,30,000/-. A complaint was made to the District Collector, Jalandhar on account of insufficient stamp duty appended by the petitioners. The Collector marked the inquiry to the DRO, who forwarded the case to ADC-cum-Collector, Jalandhar for recovery of stamp duty. The ADC-cum-Collector, Jalandhar called a report from the SDM, Jalandhar-I, who further got the inquiry conducted from the Sub Registrar, Jalandhar. Sub Registrar, Jalandhar-I vide its report dated 21.6.2013 held that the petitioners are liable to pay stamp duty of ₹10,100/- on the value of ₹1,67,700/-. Relying upon the said report, the ADC-cum-Collector asked the petitioners to pay a sum of ₹2,03,252/- by adding ₹1,69,377/- as deficiency in stamp duty and calculating the interest at the rate of Rs.33875/- for the delayed payment of the stamp duty. The petitioners filed an appeal in order to challenge the demand but it was dismissed by the Commissioner, Jalandhar Division, Jalandhar vide its order dated 28.3.2016, hence, the present petition has been filed.

Learned counsel for the petitioners has argued that there is misreading of report of Sub Registrar, Jalandhar-I by the Collector. It is submitted that the Sub Registrar, Jalandhar-I in its report dated 21.6.2013 has specifically stated "As per spot inspection, property being part of Khodian Mohalla as per residential/commercial collector rate, value of shops comes to ₹8,65,700/- and back side of residential plots value comes to ₹7,32,000/-. In this way total value comes to ₹15,97,700/-. Applicant has already affixed stamp duty on the value of ₹14,30,000/- now on balance value of ₹1,67,700/- stamp duty of ₹10,100/- should be affixed in addition. Report is presented for necessary action."

The Collector passed the order dated 08.11.2013 (R.2), assessing the total demand of ₹2,03,252/-, which reads as under:

> *"File presented. Case called. The spot inspection report of SDM Jal-I perused. As per his report this area is in Khodian Mohalla property rate being residential/commercial front commercial and rear*

portion is residential. Agreeing with the report of S.D.M, Jal-I form-2 be issued to the vendee. Separate order is enclosed in the file. File be consigned after due formalities.

Deficiency Stamp fee	*: 169377*
Interest	*: 33875*

Total	*: 203252*

Order pronounced

8.11.13 *Sd/- Collector 8/11/13"*

Learned counsel for the petitioners has submitted that on the one hand, the Collector has accepted the report of the Sub Registrar, Jalandhar-I for the purpose of demanding additional stamp duty but on the other hand the said report has been totally misread.

Learned counsel for the respondent has submitted that the Collector has passed the order, in terms of the report and even the petitioners have also submitted a letter to the Deputy Commissioner, Jalandhar on 06.8.2012 that they are liable to pay ₹81150/-.

In this regard, learned counsel for the petitioners has submitted that the said amount was offered on 06.8.2012 prior to the report dated 21.6.2013 of the Sub Registrar, Jalandhar-I and the said letter of the petitioner has never been accepted, rather the Collector accepted the report of the Sub Registrar, Jalandhar-I for the purpose of asking additional stamp duty.

I have heard learned counsel for the parties and after examining the record, I am of the considered opinion that there is total misreading on the part of the Collector qua report dated

21.6.2013 of the Sub Registrar, Jalandhar-I because in the said report, the Sub Registrar, Jalandhar-I has reached to the conclusion that the total value of the property in question comes to ₹15,97,700/- whereas the petitioners have already affixed stamp duty on the value of ₹14,30,000/- and were liable to pay on the balance value of ₹1,67,700/- to the tune of ₹10,100/-. This report has been accepted by the Collector on 08.11.2013 as it is but while calculating the stamp duty, he has committed an error while showing the deficiency in stamp duty to be ₹1,69,377/- and also imposing interest to the tune of ₹33,875/-. Error is apparent on the face of record.

Be that as it may, the impugned order is patently illegal much less contrary to the report of the Sub Registrar, Jalandhar-I, which has made the basis by the Collector to ask the petitioners to pay deficient stamp duty of ₹2,03,252/-.

In view of the above, the present petition is allowed and the impugned order is set aside. The petitioners are liable to pay additional stamp duty of ₹10,100/- as observed in the report of the Sub Registrar, Jalandhar-I. They are also held liable to pay interest @ 9% on the said amount of ₹10,100/-, which shall be collected by the Collector and conveyed to the petitioners for the purpose of payment. The entire process shall be concluded by the Collector within a period of one month from today.

October 25, 2017 **(RAKESH KUMAR JAIN)**
manoj **JUDGE**

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