IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH.

CWP 24109 of 2016

Date of Decision: March 14, 2017

Surinder Kumar

…..Petitioner

Vs.

State of Haryana and others

…..Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Naveen S. Bhardwaj, Advocate
for the petitioner.

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M.M.S. BEDI, J. (ORAL)

The petitioner has questioned the legality of the order annexure P-11 dated April 22, 2016 passed by Chief Controlling Revenue Authority whereupon the revision petition filed by the petitioner has been dismissed refusing to set aside the order dated November 7, 2013 (annexure P-8) passed by the District Revenue Officer, Sirsa exercising the power of Collector under Section 47 A of the Indian Stamp Act as well as the order dated September 29, 2014 (annexure P-10) passed by the Commissioner, Hisar Division, Hisar directing the petitioner to deposit stamp duty of

Rs.4,99,125/- on the sale deed annexure P-6 which was executed on April 17, 2012.

The grievance of the petitioner is that the agreement of sale had been executed in the year 2002 but the sale deed after a litigation between the parties was executed on the basis of another agreement which had arrived at by way of settlement in the litigation in the year 2012. The Collector in exercise of powers under Section 47 A of the Indian Stamp Act formed an opinion that the value of the property had not been truly set-forth in the instrument and required the petitioner to pay the stamp duty.

Counsel for the petitioner, when confronted with judgment of the Apex Court in **State of Haryana and others Vs. Manoj Kumar**, (2010) 4 SCC 350 laying down that no sale deed can be registered for an amount less than the Collector's rate, counsel for the petitioner has made an attempt to distinguish the said judgment.

After hearing counsel for the petitioner, I am of the opinion that in the present case, no doubt the agreement of sale is alleged to have been executed on 2002 but it is also an admitted fact that the sale deed was actually executed in 2012. The claim of the petitioner is that the stamp duty should be assessed on the basis of the value of the property which has been settled between the parties in 2002. Such an eventuality has been discussed by the Supreme Court in **Manoj Kumar's** case (supra) as under:-

> "36. We have heard the learned counsel for the parties at length. We are clearly of the opinion that the High

Court, in the impugned judgment, has erred in interfering with the concurrent findings of fact of the courts below under its limited jurisdiction under Article 227 of the Constitution. The High Court erroneously observed that the "the authenticity of the decree passed by the court cannot be questioned. Therefore, the genuineness of the sale price has to be presumed." This finding of the High Court cannot be sustained. It would have far reaching ramifications and consequences. If the genuineness of the sale price entered into by the buyer and the seller cannot be questioned, then in majority of the cases it is unlikely that the State would ever receive the stamp duty according to the circle rate or the collector rate. The approach of the High Court is totally unrealistic………

It may be pertinent to mention that, in order to ensure that there is no evasion of stamp duty, circle rates are fixed from time to time and the notification is issued to that effect. The issuance of said notification has become imperative to arrest the tendency of evading the payment of actual stamp duty. It is a matter of common knowledge that usually the circle rate or the collector rate is lower than the prevalent actual market rate but to ensure registration of sale deeds at least at the circle rates or the collector rates such notifications are issued from time to time by the appellants."

In view of the observations of the Supreme Court in **Manoj Kumar's** case (supra) and taking into consideration the peculiar circumstances of this case, I do not find any illegality in the orders passed by the authorities below while passing the order annexure P-10, P-8 and P-11. No ground is made out for interference in the above said orders in the exercise of jurisdiction under Articles 226/227 of the Constitution of India.

Dismissed.

March 14, 2017 (M.M.S.BEDI)
sanjay JUDGE

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