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

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CWP No.22763 of 2017
Date of Decision: 6th October, 2017

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Nikhil Kumar and others

. . . . Petitioners

Vs.

State of Haryana and others

. . . .Respondents

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

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Present: Mr.Shrey Goel, Advocate,
for the petitioners.

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RAKESH KUMAR JAIN, J. (ORAL)

The petitioners are aggrieved against the order dated 30.9.2015 passed by the Collector, Tohana by which they have been asked to pay the revised deficient stamp duty and the order dated 11.4.2017 passed by the Commissioner, Hisar Division, Hisar by which the appeal filed by the petitioners under Section 47-A(4) of the Indian Stamp Act, 1899 (as applicable to Haryana) [for short 'the Act'] has been dismissed on the ground of delay.

Learned counsel for the petitioners, while attacking the order of the appellate authority, has submitted that the appellate authority has wrongly computed the period of limitation from the date of pronouncement of the order i.e. 30.9.2015 as it was endorsed on 29.2.2016 and the appeal was filed on 8.4.2016. He has submitted that the period of limitation to file appeal is 30 days and, therefore, the delay was not 189 days as counted.

I have heard learned counsel for the petitioners and after examining the record, am of the considered opinion that there is no merit in the contention raised by counsel for the petitioners. In order to deal with the arguments of the petitioners, it would be relevant to refer to Section 47-A(4) of the, which read as under: -

> *"Any person aggrieved by any order of the Collector under sub-section (2) or sub-section (3) may, within thirty days from the date of that order, prefer an appeal before the Commissioner and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules made under this Act.*
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> *Explanation - For the purpose of this section, value of any property shall be estimated to be the price which is in the opinion of the Collector or the appellate authority, as the case may be, such property would have fetched, if sold in the open market on the date of execution of the instrument relating to the transfer of such property."*

From a bare reading of the aforesaid provision, it is clear that the order of the Collector, passed either under Section 47-A(2) or 47-A(3) can be challenged by any person, who is aggrieved, within 30 days from the date of passing of that order by way of an appeal before the Commissioner.

The issue in this case is as to whether the limitation is to be counted from the date as suggested by counsel for the petitioners i.e. from the date of endorsement or from the date on which the appellate authority had pronounced the order?

As per the facts of the case, the Collector pronounced the decision on 30.9.2015. There is an endorsement with the order of the Collector dated 29.2.2016, which read as under: -

> *"End. No.178/reader Dated 29.02.2016*
>
> *A copy of this be sent to sub registrar Tohana in regard to his letter No.2126, RC dated 12.03.2014. It is directed that the due amount be recovered from them as per rules and according to the rules under land revenue act."*

The language of the provision is very clear as it is provided therein that the appeal has to be filed within 30 days from the date of the order. The order was passed on 30.9.2015, therefore, 30 days have to be counted from the said date and not from the date of endorsement. Moreover, the endorsement is the communication by the Collector to the sub registrar with a direction to recover the amount from the petitioners as per rules and in no way the limitation is to be counted from 29.2.2016 and has to be counted from the date of decision which was pronounced in open Court on 30.9.2015. The petitioners should have been vigilant to avail their right of appeal within the time prescribed and cannot take the lame excuse of counting the period of limitation from the date of endorsement. There is no error in the order of the appellate authority and hence, there is no merit in the present petition as until and unless the issue of limitation is decided in favour of the petitioners, the merit of this case cannot be touched.

With these observations, the present petition is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

6th OCTOBER, 2017
Vivek

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*