

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

**CWP No.4965 of 2015
Date of decision:07.03.2017**

Jagdish Lal

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sarju Puri, Advocate
for the petitioner.

Mr. Yatinder Sharma, Addl.A.G.Punjab.

AMIT RAWAL J. (Oral)

The petitioner is aggrieved of the impugned orders dated 05.09.2013 (Annexure P-6) and 28.03.2014 (Annexure P-9) passed by respondent No.3 - The Additional Deputy Commissioner-cum-Collector, Hoshiarpur and respondent No.2 - The Commissioner, Jalandhar Division, Jalandhar, respectively, whereby, he has been called upon to pay a sum of ₹2,43,800/- as deficient stamp duty and ₹22,320/- as registration fee; total comes to ₹2,66,120/- on the premise that the sale deed registered on 03.12.2012 was not of a plot but was erroneously done by giving the particulars of a plot, whereas, the construction had already been raised thereon.

Mr. Sarju Puri, learned counsel appearing on behalf of the petitioner submits that both the Additional Deputy Commissioner and

Commissioner have abdicated in performing the duties, much less adhering to the provisions of Section 47-A of Indian Stamp Act as applicable to Punjab, for, the basis of arriving at a finding is on account of the report of Sub-Registrar, in essence, no independent evidence has been led to determine the market value of the property. In support of his contention, relies upon the ratio decidendi culled out by the Hon'ble Division Bench of this Court in ***Gauri Singla vs. State of Haryana and others 2009(1) RCR (Civil) 293*** and ***Madan Lal vs. State of Punjab 2009 (1) All India Land Laws Reporter 533*** to contend that the spot inspection is not the criteria for ascertaining the value of the land and to form the basis of the alleged stamp duty.

Per contra, Mr. Yatinder Sharma, learned Additional Advocate General, Punjab appearing on behalf of the respondents-State submits that the petitioner had given the incorrect particulars in the sale deed for the purpose of getting the same registered by terming as a 'plot', whereas, the construction had already been raised on it. The evidence allegedly brought on record has rightly been discarded as it was not backed by any basis or foundation. The findings of the authorities below are perfectly legal and justified, much less in accordance with law and do not call for any interference.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Sarju Puri. The findings of the Additional Deputy Commissioner as

culled out in the impugned order dated 05.09.2013 (Annexure P-6) are primarily based upon the report of Sub Registrar which is not disputed in the written statement and it is not the object of the Indian Stamp Act, much less in consonance with the ratio decidendi culled out by the Hon'ble Division Bench of this Court in both the judgments cited supra. In both the cases, the Hon'ble Division Bench had an occasion to ponder upon the impugned orders passed from time to time with regard to impounding of the sale deed, much less deficiency of the stamp duty based upon the spot inspection, whereas, actual process, i.e., enquiry to be conducted for ascertaining the market value of the property on the date when the sale deed was presented is conspicuously wanting. All these factors were required to be examined by the authorities below but in my view, failed to perform their duties, thus, the orders under challenge do not stand on the touchstone of reasonability, much less sustainability and thus, fall within the scope of *doctrine akin* to judicial review.

Resultantly, the impugned orders are set aside. Writ petition stands allowed.

(AMIT RAWAL)
JUDGE

March 07, 2017
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No