IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P.No.8007 of 2015 (O&M)
Date of Decision: March 07, 2017

Daulat Singh

...Petitioner

Versus

Union of India & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Karan Gupta, Advocate,
for the petitioner.
Mr.Neeraj Madaan, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

CM No.1177 of 2017

Rejoinder is taken on record subject to all just exceptions.

Application stand disposed of.

CM No.1178 of 2017

Prayer in the application is for impleading the L.Rs of Daulat Singh petitioner. The same is supported by an affidavit.

For the reasons mentioned in the application, the same is allowed subject to all just exceptions and the L.Rs of the petitioner are impleaded for the adjudication of the present case only.

CWP No.8007 of 2015

The petitioner is aggrieved of the impugned communication dated 9.3.2015 (Annexure P-1), whereby the request of the petitioner for refund of Rs.9,91,700/- as stamp duty and registration charges etc.on the basis of the policy dated 13.6.2011 (Annexure P-6) extracted at pages 43-50 of the paper book, has been declined.

Mr.Karan Gupta, learned counsel for the petitioner submits that the land of the petitioner was acquired for the purpose of setting up Eastern Dedicated Freight Corridor in the District of Patiala, resulting into passing of the award dated 14.12.2011 (Annexure P-2) and payment of compensation of Rs.1,97,55,083/- vide cheque dated 18.7.2013. The Union of India had come out with a policy to extend the benefit of refund of stamp duty and registration charges to the persons, whose land had been acquired in case they purchased the land within one year from the date of compensation. He has drawn the attention of this Court to clause (viii) of the policy which reads thus:-

> "*(viii) Refund of stamp duty and registration charges incurred for replacement land to be paid by the project; replacement land must be bought within a year from the date of payment of compensation to affected party as defined in section 20 (H) of RAA 2008.*"

In view of the aforementioned fact, the petitioner submitted request for refund of the stamp duty and registration charges, but the same has wrongly been rejected vide communication dated 9.3.2015 (Annexure P-1), which reads as under:-

> "*Sub:- Legal Notice dated 23.02.2015 received in this office on 03.03.2015.*
>
> *Ref:- Your Legal notice no.NIL date 23/02.2015.*
>
> *Reference above, it is to intimate to you that as per approved policy of Railway Board, refund of stamp duty and registration charges is to be done for the land purchased on replacement basis. In this case your client has purchased land worth Rs.65,00,000/- as per sale deed for which necessary refund of stamp duty & registration charges has already been received by him. It is observed that registration of land has been got executed at higher value for the reasons best known to your client. In fact he has spent Rs.65,00,000/- not*

Rs.98,66,000/- out of the land compensation received from DFCCIL.

In view of above it is to inform that claim of your client regarding refund of stamp duty on Rs.33,66,000/- (Rs.98,66,000/-- Rs.65,00,000/-) which he has not spent in real is not admissible as per rules.

(Gurmail Singh)
Dy.PM/Engg./LDH,
for Dy.Chief Project Manager/Engg.
DFCCIL, Ludhiana.

Copy to: District Revenue Officer-cum-Competent Authority Mini Secretariat, Block A, Patiala for information & necessary action please."

He further submits that the basis of rejection of the request was that the sale price kept for the sale deed was Rs.65,00,000/-. The Collector rate at the relevant time, according to the State, was Rs.98,66,000/-. The petitioner had paid Rs.8,87,940/- as stamp duty, Rs.98,660/- as registration fee, Rs.5,000/- as computer fee and Rs.100/- as posting fee, totalling Rs.9,91,700/- on an amount of Rs.98,66,000/-, which is totally against the scope of the aforementioned policy, in essence Dedicated Freight Corridor Corporation of India Limited (DFCCIL) have no authority for not refunding the aforementioned amount of stamp duty/registration charges, thus, the aforementioned communication is not sustainable and is liable to be set-aside.

Mr.Neeraj Madaan, learned counsel for the respondents submits that the impugned communication is an order and, therefore, request for refund of the stamp duty/registration charges is not maintainable. The reason assigned in the aforementioned communication is perfectly legal and justified. In fact, the party had sold the property at under value and, therefore, not liable to take the benefit of the policy.

I have heard the learned counsel for the parties and appraised the paper book.

The conceded position on record is that the petitioner had purchased the property within one year, i.e., on 10.10.2013 and had made payment of stamp duty, including registration charges aforementioned. Clause (viii) of the policy, ibid, has not been rebutted. The sale and purchase of land at a price lower than the Collector rate is the prerogative of the vendor and the vendee. In the present case, the land was sold to the petitioner on a price which was lower than the Collector rate prevailing in the area, but the petitioner had paid the stamp duty and registration charges on Rs.98,66,000/-, i.e., as per Collector rate, thus, in my view there was no undervalue of the property, as the State had not been put to any loss. In my view, the respondents have to respect and regard the policy in holding the petitioner to be entitled to refund of the stamp/registration charges, but the fact has not been noticed as indicated above.

Resultantly, the impugned communication is not sustainable and is hereby set-aside. The petitioner is held entitled to refund of stamp duty/registration charges as indicated above with interest @ 9% on the due amount. The respondents are at liberty to adjust the amount in case some payment has been made by them.

Writ petition stands allowed.

March 07, 2017 **(AMIT RAWAL)**
ramesh **JUDGE**

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