

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 6308 of 2017(O&M)
Date of Decision: May 16, 2017

Angana Bahadur

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

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

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Present:- Mr. Samarth Sagar, Advocate
for the petitioner.

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

Misc. application is allowed as prayed for.

In the order passed by the Collector and the Commissioner the petitioner has been required to pay the stamp duty of Rs.4,01,950/- rejecting her claim that no stamp duty is applicable in family settlement matter. The petitioner appears to have obtained a consent decree against Mrs. Shashi Lal, her mother, pertaining to the property which is the subject matter of the dispute.

While declining the claim of the petitioner, the learned Commissioner has observed as follows:-

“After hearing the arguments led by Ld. Counsels for both the parties and perusal of file of Ld. Court below, it is revealed that appellant has got registered

decree vide Deed No. 23273 in the office of Sub Registrar, Gurgaon. But it is apparently clear from perusal of said decree that there is no blood relating/ family relation between Smt. Angana Bahadur and Smt. Shashi Lal. I am fully agreed with the contention of Assistant District Attorney. According to instructions issued by the government vide letter No. 4866-STR-I-96/18474 dated 24.9.96, it is essential to receive stamp duty on the decree, which is not bona fide. Hence I find no error in order passed by the Collector, Gurgaon and do hereby dismiss the appeal filed by appellant being devoid of merits.”

As per the above said observations, two reasons have been given for recovering inadequate stamp duty i.e.

- i) there is no blood relation/ family relation between the petitioner and Smt. Shashi Lal wife of M.B. Lal (Madho Bihari Lal);
- ii) as per instructions dated September 24, 1996, it is essential to pay stamp duty on the decree which is not bonafide.

No steps seem to have been taken to determine the blood relation of petitioner with Shashi Lal by the authorities below. The counsel for the petitioner has placed on record copy of the passport of petitioner showing that Sh.Madho Bihari Lal is her father's name.

There does not appear to be any objective satisfaction of the Collector and Commissioner while arriving at a conclusion that the decree obtained by the petitioner on November 23, 2013 is not bonafide or it has caused any prejudice to any private party.

Notice of motion to Advocate General, Haryana.

On the asking of the Court, Mr.Gaurav Jindal, Addl.A.G., Haryana, accepts notice. Copy given.

A disputed question of fact having surfaced on the claim of the State and the liability of the petitioner requires to be determined objectively. The orders passed by the Collector and Commissioner appear to be non-speaking on the above said fact. The orders annexures P-1 and P-5 are hereby set aside. The petitioner will appear before the Sub Divisional Officer-cum-Collector, Gurgaon having jurisdiction under Section 47 of the Indian Stamp Act, 1889 within a period of one month for reconsideration of the above said factual aspects by giving a fair opportunity to the petitioner to produce the relevant material. It will be open to the Collector/ Commissioner to pass any fresh order after giving an opportunity of hearing to the petitioner on the above said aspect.

Disposed of.

Copy of the order will be communicated to the Collector by the petitioner by registered post as well as by appearing before him.

May 16, 2017
sanjay

(M.M.S.BEDI)
JUDGE

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