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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8761 of 2017 (O&M)
Date of decision:14.07.2017

Food Corporation of India …Petitioner

Versus

State of Punjab and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Manav Bajaj, Advocate, for
Mr. Sumeet Goel, Advocate, for the petitioner.

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Rakesh Kumar Jain, J. (Oral)

CM No.9002 of 2017

Application is allowed, as prayed for.

Annexure P-7 (Colly) is taken on record.

CWP No.8761 of 2017

This petition is filed in order to challenge the order of the Collector (ADC), Ludhiana dated 16.04.2013 by which the petitioner has been asked to pay the deficient stamp duty and registration charges in terms of Section 47-A of the Indian Stamp Act, 1899, as applicable to the State of Punjab (hereinafter referred to as the "Act") and the order of the Divisional Commissioner, Patiala, dated 16.02.2016, dismissing appeal of the petitioner.

In short, the case set up by the petitioner-FCI is that it was allotted the land measuring 8.14 acres for construction of godown at Gill Road, Ludhiana in the year 1969 and possession was delivered to it by the

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Improvement Trust, Ludhiana on 31.01.1969. The petitioner made the entire payment of ₹1,29,224.13/- towards cost of the above land @ ₹3.28 per square yard vide receipt no.14757 dated 09.04.1969. Respondent no.4 has allegedly neither issued the allotment letter nor executed the sale deed despite the receipt of the entire payment. The petitioner served a legal notice to respondent no.4 on 28.07.2009 and since the said legal notice was not decided, therefore, the petitioner had to file CWP No.5844 of 2010, in which this Court directed respondent no.4 to execute the sale deed in favour of the petitioner. The directions of this Court were also not followed and, thus, the petitioner had to file the contempt petition. During the pendency of the contempt petition, respondent no.4 passed the order on 17.08.2011, asking the petitioner to deposit ₹1,67,81,361/- towards development charges and interest thereon. The petitioner deposited the said amount on 19.09.2011 under protest. It is further averred in the petition that despite depositing the aforesaid amount, respondent no.4 did not execute the sale deed. However, the sale deed was presented by the respondents for registration on 20.06.2012 and at that time, it was impounded by the Sub Registrar and reference was made to the Collector about the shortage of stamp duty and registration charges at the instance of the petitioner. The reference was allowed by the Collector, after hearing the parties, holding that the petitioner is liable to pay the deficient stamp duty and registration charges.

Aggrieved against the said order, the petitioner preferred an appeal, which has also been dismissed by the Divisional Commissioner in the same manner.

Counsel for the petitioner submits that the Government of Punjab,

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Department of Revenue and Rehabilitation and Disaster Management, issued notification dated 07.03.2011, followed by another notification dated 30.09.2011, notifying the Punjab Stamp (Dealing of Under Valued Instruments) (Third Amendment) Rules, 2011, in which Rule 3-B was inserted, as per which if the conveyance deed is got registered upto 31.03.2012 after making full payment of the price or within a period of one year, then the petitioner was supposed to pay the stamp duty and registration charges at the rates on which the land was allotted and not on the prevailing collector rate, being a government entity.

Counsel for the petitioner has submitted that there is no fault on the part of the petitioner and the entire fault is attributable to respondent no.4 who has delayed execution and registration of the sale deed. Had the sale deed been executed by respondent no.4 before the cut off date i.e. 31.03.2012, the petitioner would not have to suffer all this and since the sale deed was presented by respondent no.4 for the purpose of registration on 20.06.2012, i.e. after the cut off date, therefore, the petitioner has been asked to pay the deficient stamp duty and registration charges.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the authorities who have passed the impugned orders are only concerned with the payment of deficient stamp duty and registration charges and are nobody to decide as to who was at fault. Since respondent no.4 had presented the sale deed for the purpose of execution and registration on 20.06.2012, i.e. after the cut off date 31.03.2012, which is being claimed by the petitioner in terms of the aforesaid notification dated 30.09.2011, then the petitioner would have a right to sue or prosecute

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respondent no.4 for the purpose of recovery of the said amount but no fault can be found with the action taken by the registration authorities.

With these observations, the present petition is hereby dismissed being denuded of any merit.

July 14, 2017 **(Rakesh Kumar Jain)**
vinod* **Judge**

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No