IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.13179 of 2013

DATE OF DECISION: JULY 27, 2018

RISHAB JAIN ...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS ...RESPONDENTS

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

PRESENT: MR. SUNIL AGNIHOTRI, ADVOCATE
FOR THE PETITIONER.

MR. SAHIL SHARMA, DAG, PUNJAB.

RAKESH KUMAR JAIN, J.(ORAL)

This petition is directed against the order passed by Tehsildar-cum-Sub Registrar, Mukerian dated 17.5.2013 by which the petitioner was asked to pay Stamp Duty to the tune of ₹4,40,000/- on Vasika No.128 dated 17.4.2009 on the ground that said deficiency has been detected by the Audit party.

Learned counsel for the petitioner, *inter alia*, contends that firstly the Sub Registrar does not have the jurisdiction to pass this order as the jurisdiction vests with the Collector and secondly, the proceedings cannot be initiated after a period of 3 years as per Section 47-A(3) of the Indian Stamp Act,1899 (applicable to Punjab) (for short 'the Act').

Learned counsel for the respondent-State has fairly conceded that Sub Registrar does not have the jurisdiction to pass the order of recovery of deficiency in Stamp Duty and the maximum period of limitation provided under Section 47-A(3) of the Act is 3 years from the date of execution of the document for the purpose of recovery of deficiency in Stamp Duty.

In view thereof, the petition succeeds mainly on two grounds, firstly, that the Sub Registrar, Mukerian has no jurisdiction to pass such an order for recovery of deficiency in Stamp Duty and secondly, the proceedings initiated on the basis of audit report by him, after a period of 3 years is against the law in view of Section 47-A(3) of the Act.

Thus, the writ petition is hereby allowed and the impugned order is set aside.

July 27, 2018
Gulati

(RAKESH KUMAR JAIN)
JUDGE

Whether Reportable : Yes

Whether Speaking/Reasoned : Yes/No