

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.10549 of 2018
Date of Decision:21.05.2018

Jiwan Kumar and another

. Petitioners

Vs.

State of Punjab and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Mukand Gupta, Advocate,
for the petitioners.

RAKESH KUMAR JAIN, J.

The petitioners are aggrieved against the order dated 21.3.2016 passed by the Collector, Mansa and the order dated 9.8.2017 passed by the Commissioner, Faridkot Division, Faridkot.

In brief, the petitioners purchased land measuring 2 kanal 0.5 marla by way of registered sale deed No.1823 dated 10.7.2013. It is alleged that the petitioners had purchased the agricultural land (Nehri) as per the Collector rate prevalent at that time. However, the stamp duty of ₹6,27,425/- was found deficient during the audit and the case was forwarded by the Sub Registrar to the Collector in terms of Section 47A of the Indian Stamp Act, 1899 [for short 'the Act']. Notice was issued to the petitioner by the Collector under Section 4(1) of the Punjab Stamp (Dealing of Undervalued Instruments) Rules, 1983 [for short 'the Rules']. The Sub Divisional Magistrate, Mansa was directed to report about the nature of the land after visiting the spot. Vide his letter dated 17.12.2015, the SDM, Mansa had reported that the land falls in Sr. No.57/93 not in 57/133 of the

Collector rate list. It was also reported that the petitioners have wrongly mentioned that the land is Nehri otherwise it is a commercial land. The Collector along with the report of the SDM, Mansa himself inspected the site on 15.3.2016 in the presence of the petitioners and the Patwari of the area during which it was found that only 2 kanal 0.50 marla land i.e. 4050/47500 share has been sold out of land measuring 23 kanal 15 marla falling in Khasra No.111/2(2-5), 1121/1(21-10). The land was found situated about 100 feet away from the road going from Vidya Bharti School towards canal bridge which was found vacant at the spot. The Collector had found that the land falls in Sr. No.57/93 of the Collector rate list and not in Sr. No.57/133 and passed the order of making the deficiency of stamp duty good.

Aggrieved against the order of the Collector, the petitioners filed appeal before the Commissioner Division, Faridkot who also found that the petitioners, in order to evade the payment of proper stamp duty, got the sale deed registered by mentioning Sr.No.57/133 of the Collector rate list instead of Sr.No.57/93 in which the property is situated.

Though the entire case of the respondents is based upon the report of the SDM, Mansa, who had found that the land falls under Sr.No.57/93 and not in 57/133 of the Collector rate list, Mansa yet the said report has not made part of this petition for the perusal of the Court, rather the petitioners have placed on record jamabandis etc. to show that the land in question was Nehri.

Learned counsel for the petitioners has failed to answer as to why the petitioners have not appended the report of the SDM, Mansa which is the basis of the impugned orders passed by both the Collector and the Commissioner. It is apparent that the land mentioned at Sr. No.57/93 is

residential area from Vidya Bharti School to canal whereas the land which is mentioned at Sr. No.57/133 has to be under the boundary of Municipal Council which is more than 2 kanal and cultivable. The SDM, Mansa has found that the land in question is a residential area from Vidya Bharti School to Canal which is observed by the Collector in his impugned order, therefore, the Collector rate for the same has been asked to be paid.

After hearing learned counsel for the petitioners in detail, I could not find any reason to differ with the findings recorded by both the parties under the Act and hence, the present petition is hereby dismissed. No costs.

21.05.2018

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No