

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.13486 of 2017

DATE OF DECISION: JULY 27, 2018

SANTOSH DEVI

...PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

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

PRESENT: MR. TANMOY GUPTA, ADVOCATE
FOR THE PETITIONER.

MS. SAFIA GUPTA, AAG, HARYANA.

RAKESH KUMAR JAIN, J.(ORAL)

This petition is directed against the order passed by the Joint Deputy Registrar dated 25.1.2017 by which he has refused to register the Sale Deed No.9088 dated 25.1.2017 presented by the petitioner, allegedly on the ground that the property in dispute is located within the Municipal limit but the purchaser has not presented the receipt of Development Charges of Municipal Council, Palwal.

Learned counsel for the petitioner has referred to the decisions of this Court rendered in *Ranjeet Singh and another vs. Deputy Commissioner-cum-Registrar, Ambala and another, 2012(3) RCR (Civil) 526* and *Maya Kaur and another vs. State of Haryana, 2014(5) RCR (Civil) 872*, to contend that the Registrar does not have the jurisdiction to refuse the registration of the sale deed for any other reason except for the reasons provided under Sections 21, 23, 28, 32 and 35 of the Indian

Registration Act, 1908 (for short 'the Act').

He has referred to a decision of Andhra Pradesh High Court in **Pasupuleti Bala Gangadhar vs. State of A.P., 2013(21) RCR (Civil) 109**, to contend that this Court has the jurisdiction to entertain the petition under Article 226 of the Constitution of India.

On the other hand, learned counsel for the petitioner has taken a preliminary objection that the impugned order, purported to have been passed under Section 71 of the Act, is appealable under Section 72 of the Act. He has relied upon the decision of this Court in **Hira Lal vs. Registrar, Panipat and others, 2016(1) RCR (Civil) 297** and a judgement of Delhi High Court in **Sheo Murti Shukla vs. State (Govt. of NCT of Delhi), 2012 (1) ILR (Delhi) 40**, to contend that the writ petition is not maintainable when the statutory remedy of appeal is available.

I have heard learned counsel for the parties and perused the record with their able assistance. The present writ petition is not maintainable in the present form. In this regard, a reference can be had to Section 72 of the Act which reads as under:-

“S. 72. Appeal to Registrar from orders of Sub-Registrar refusing registration on ground other than denial of execution.-(1) Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is

subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order.

(2) If the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.”

Chapter XII of the Act specifically deals with the reasons for refusal to register a document on the part of the Sub Registrar. Section 71 of the Act says that the Sub Registrar has to give reasons for refusal and Section 72 of the Act says that in case of refusal, an appeal would lie before the Registrar against the order of Sub Registrar.

There is denial of execution in this case. He has refused to register the document on the ground that the property in dispute is situated within the revenue estate of Municipal Council but the petitioner/purchaser did not produce any receipt of Development Charges of the Municipal Council. Even if for the sake of arguments, it is admitted that the Sub Registrar has no jurisdiction to ask for receipts from the petitioner, if the properties lies within Municipal limits, yet the question in this case would be as to whether the petitioner has a remedy of appeal in terms of Section 72

of the Act or not?

Section 72 of the Act specifically provides a right of appeal in case of refusal of registration of the document presented before the Sub-Registrar. The issue as to whether refusal on the part of Sub Registrar on the ground that the petitioner has not paid the developmental charges to the Municipal Council would be looked into by the appellate Authority. The jurisdiction of this Court is extra ordinary in nature under Article 226 of the Constitution of India and should be sparingly used in cases where the statutory remedy of appeal is provided. Therefore, the petitioner, if so advised, may take the remedy of appeal against the impugned order.

With the above observations, the present petition is disposed of.

July 27, 2018
Gulati

(RAKESH KUMAR JAIN)
JUDGE

Whether Reportable : Yes

Whether Speaking/Reasoned : *Yes/No*

