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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12881 of 2018
Date of decision:September 28, 2018

Satbir Singh ...Petitioner

Versus

State of Haryana and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sawan Choudhary, Advocate,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

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Rakesh Kumar Jain, J.

The petitioner has challenged the orders dated 17.07.2017 passed by the Collector, Sub Division, Safidon and dated 08.03.2018 passed by the Commissioner, Hisar Division (Camp at Jind).

In brief, the petitioner had purchased the land measuring 02 Kanal 00 Marla, situated at Rampura, Tehsil Safidon, District Jind for a consideration of ₹5,00,000/- on 08.12.2014. The petitioner received a show cause notice dated 18.07.2018 issued in terms of the provisions of Section 47-A(3) of the Indian Stamp Act, 1899, as applicable to the State Haryana (hereinafter referred to as the "Act"). The Collector, Safidon, vide the impugned order dated 17.07.2017, found the deficiency of stamp duty of ₹37,500/- and registration charges of ₹9,000/-, total amounting to ₹46,500/-, as has been pointed out by the audit party, on the ground that the land is situated near Safidon bye-pass, on the main road, where the collector rate in the year

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2014-2015 was ₹50 lacs per acre.

Aggrieved against the said order, the petitioner filed the statutory appeal before the Divisional Commissioner, which has also been dismissed vide the impugned order dated 08.03.2018.

Counsel for the petitioner has submitted that the proceedings initiated by the Collector is contrary to law. According to him, the proceedings have been initiated by the Collector on the reference made by the Sub Registrar on the basis of an audit report. It is submitted that the proceedings under Section 47-A(3) of the Act can be initiated either by the Collector *suo motu* or on receipt of reference from the Inspector General of Registration or the Registrar of a district in whose jurisdiction the property or any portion thereof which is the subject matter of the instrument is situate, appointed under the Registration Act, 1908, within a period of three years from the date of registration of the instrument especially when the matter has not been referred to him under Section 47-A(1) of the Act. Otherwise, on the basis of the audit report, the proceedings can be initiated in terms of Section 47-A(1) of the Act and not under Section 47-A(3) of the Act. In support of his contention, counsel for the petitioner has relied upon a decision of this Court rendered in the case of **Iqbal Singh and others vs. State of Haryana and others,** 2011(3) R.C.R. (Civil) 365.

It is averred in the reply that the petitioner has purchased the aforesaid land meausring 02 Kanal 00 Marla vide vasika no.2588 dated 08.12.2014. It is also averred that the Sub Registrar, Safidon had sent the reference to the Collector under Section 47-A(1) of the Act vide his memo no.184 dated 16.11.2016 on the basis of an audit report carried out by the

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Accountant General, Haryana. As per the audit report, the land falling in Killa Nos.28//3, 4, 7 and 8 is situated on the prime location near Safidon bye-pass on the main road because the petitioner has got the recital of killa numbers in the sale deed no.2588 dated 08.12.2014. The collector rate for the land in dispute was fixed @ ₹50 lacs per acre, mentioned at Sr. No.8 in the collector rate list for the years 2014-15. It is further averred that after receiving information from the Sub Registrar, respondent no.3 took cognizance under Section 47-A (3) of the Act and himself inspected the spot on 15.07.2017 before directing the petitioner to deposit the deficient stamp duty and registration charges amounting to ₹46,500/-.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that there is merit in the contention raised by the petitioner in view of the decision rendered by this Court in **Iqbal Singh's case (supra).** Section 47-A has three parts. Section 47-A(1) deals with the powers of the Sub Registrar who, while registering any instrument of transfer of a property, if has reason to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be for the proper duty payable thereon. Section 47-A(2) further provides that the Collector, on receipt of reference under Section 47-A(1) of the Act, would give the parties reasonable opportunity of hearing and after holding an enquiry, in the manner prescribed under the Rules, made under the Act, would determine the value or consideration and the duty as aforesaid and the deficient amount of duty, if any, but Section 47-A(3) of the Act contains a

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different power conferred upon the Collector who may *suo motu* or on receipt of reference from the Inspector General of Registration or the Registrar of a district in whose jurisdiction the property or any portion thereof, which is the subject matter of the instrument, is situate, appointed under the Registration Act, 1908, within three years from the date of registration of any instrument, not already referred to him under Section 47-A(1) of the Act can call for and examine the instrument for the purpose of satisfying himself as to the correctness of its value or consideration. Meaning thereby, if the reference is made under Section 47-A(1) of the Act by the Sub Registrar on the basis of the audit report, then the Collector cannot assume the *suo motu* powers conferred upon him under Section 47-A(3) of the Act. In the present case, the reference has admittedly been made by the Sub Registrar to the Collector on the basis of an audit report in terms of Section 47-A(1) of the Act and thereafter, notice was issued by the Collector keeping in view the delay in making the reference for taking advantage of the period of three years provided under Section 47-A (3) of the Act for the purpose of recovering the deficient stamp duty.

In view of the above, the Collector could not have initiated the proceedings under Section 47-A(3) of the Act because the powers have been given to the Collector to initiate the proceedings *suo motu* or on receipt of reference from the Inspector General of Registration or the Registrar of a district in whose jurisdiction the property or any portion thereof, which is the subject matter of the instrument, is situated, within three years from the date of registration of any instrument, especially when the matter is already not referred to him under Section 47-A(1) of the Act.

Thus, in view thereof, the entire proceedings initiated at the

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instance of the Collector under Section 47-A(3) of the Act, after receiving the reference from the Sub Registrar under Section 47-A(1) of the Act, are contrary to the provisions of the Act.

Consequently, the present petition is hereby allowed and the impugned orders passed by the authorities below are set aside.

September 28, 2018 **(Rakesh Kumar Jain)**
vinod* **Judge**

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No