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

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CWP No.15230 of 2017
Date of Decision:19.07.2018

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Chameli Devi

. . . . . Petitioner

Vs.

State of Haryana and others

. . . . . Respondents

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CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

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Present: - Mr.S. S. Sahu, Advocate,
for the petitioner.

Mr.Saurabh Mohunta, DAG, Haryana.

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RAKESH KUMAR JAIN, J.

The petitioner is aggrieved against the orders dated 6.12.2014 passed by the Collector and dated 11.4.2017 passed by the Commissioner, Hisar Division, Hisar by which she has been asked to pay ₹2,06,577/- on account of deficiency in Stamp Duty and registration charges.

In brief, the petitioner had taken land measuring 133 kanal 10 marla on lease for a period of 26 years vide registered lease deed dated 7.2.2013 to construct a godown and further to deliver it to HAFED. The tender of the petitioner was not accepted by the HAFED and therefore, the petitioner cancelled the lease deed on 26.6.2014. On account of an audit note, the matter was referred to the Collector in regard to the deficiency of Stamp Duty of ₹1,92,577/- and registration charges of ₹14,000/-, total amounting to ₹2,06,577/-. Proceedings were initiated by the Collector under section 47-A of the Indian Stamp Act, 1899 [for short 'the Act'] and relying upon the audit note only, the petitioner was saddled with the liability. Aggrieved against the said order, the petitioner filed appeal under Section 47-A(4) of the Act with the Commissioner, Hisar Division, Hisar, in which it was alleged that the proceedings initiated after a long time in terms of Section 47-A of the Act is illegal but the Appellate Court considered the reference under Section 47-A(3) of the Act and held that the cognizance can be taken by the Collector within three years.

Learned counsel for the petitioner has submitted that Section 47-A (3) of the Act is not applicable because the reference has not been made by the authorities mentioned therein and in this regard he has relied upon a decision of this Court rendered in *"Iqbal Singh and others Vs. State of Haryana and others" 2011(3) RCR (Civil) 365.*

I have heard learned counsel for the parties and after examining the available record, am of the considered opinion that the learned Appellate Court has not drawn the distinction between the reference made under Sections 47-A(1) and 47-A(3) of the Act because the reference was made by the audit party. Therefore, I am of the considered opinion that the matter requires a re-look by the appellate authority.

Consequently, the present petition is allowed, the impugned order dated 11.4.2017 passed by the appellate authority is set aside and the matter is remanded back to him to decide it again after giving a categoric finding on the issue of applicability of Section 47-A(1) and 47-(A)(3) of the Act.

Parties are directed to appear before the appellate authority on 14.08.2018.

(RAKESH KUMAR JAIN)
JUDGE

19.07.2018
Vivek

Whether speaking /reasoned : Yes/No
Whether Reportable : Yes/No