

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

CWP No.19850 of 2015
Date of Decision: 30.01.2018

Sham Lal Gupta

. Petitioner

Vs.

Commissioner, Faridkot Division, Faridkot and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Aditya Dassaur, Advocate,
for the petitioner.

Mr.H.S. Sitta, AAG, Punjab.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed to challenge the orders passed by the Collector, Mansa dated 15.09.2005 and by the Commissioner, Faridkot Division, Faridkot dated 29.9.2006. The writ petition was filed in this Court on 11.9.2015.

In brief, the petitioner was allotted a booth/plot No.81 situated in Anaj Mandi, Sardulgarh by the Administrator, New Mandi Township, in an open auction, for a sum of ₹5000/- on 18.6.1973. The petitioner had allegedly paid all the installments and conveyance deed was executed by the State of Punjab through Administrator, New Mandi Township on 17.2.2005. After the execution of the conveyance deed, the petitioner presented the said conveyance deed before the Sub Registrar, Sardulgarh/respondent No.3 for the purpose of its registration on 26.4.2005. Thereafter, respondent No.4 vide his letter No.70/RK dated 6.5.2005 sent the conveyance deed No.121 dated 26.4.2005 to respondent No.2 with the recommendation to take action

under Section 47-A of the Indian Stamp Act, 1899 [for short 'the Act'] against the petitioner on account of deficiency in the stamp duty to be paid by him. The Collector after issuing notice to the petitioner and taking into consideration the evidence brought before him passed the impugned order on 15.9.2005 holding the petitioner liable to pay the deficient stamp duty to the tune of ₹44,550/- and registration charges to the tune of ₹4950/- along with interest @ 12% per annum, after assessing the value of the land @ ₹5 lac.

Aggrieved against the said order, the petitioner filed the statutory appeal before the Commissioner, Faridkot Division, Faridkot, which was dismissed on 29.9.2006. The petitioner did not challenge the aforesaid two orders for about 9 years as the present petition has been filed on 11.9.2015.

Learned counsel for the petitioner has submitted that in the meantime there was an amendment in the Punjab Stamp (Dealing of Under-valued Instruments) Rules, 1983 [for short 'the Rules'] by way of Punjab Stamp (Dealing of Under-valued Instruments) Rules, 2009 notified on 11.11.2009 vide which Explanation has been added in Rule 3-A. It is submitted that as per the said Explanation value of the property would be deemed to be the collector's rate which was fixed at the time of allotment of the immovable property. He has also referred to the decision of this Court rendered in *CWP No.4109 of 2010* titled as "*Kamlesh Rani and another Vs. Commissioner, Faridkot Division, Faridkot and others*" decided on 11.7.2011.

On the other hand, learned counsel for the respondents/State has submitted that the writ petition is highly belated as it has been filed after a gap of 9 years and is thus liable to be dismissed only on the ground of delay and latches.

I have heard learned counsel for the parties and perused the record.

There is no dispute that the impugned orders were passed by the Collector on 15.9.2005 and Commissioner on 29.9.2006. The amendment, which has been relied upon by the petitioner was not even in the offing as it came on 11.11.2009 i.e. much after a period of three years from the date of passing of the impugned order by the Commissioner on 29.9.2006. The petitioner cannot take advantage of subsequent notification after waiting for so many years to challenge the impugned orders. It is well settled that even a civil suit for declaration after a period of three years is not maintainable whereas in the present case the petition has been filed after a period of 9 years from the date of passing of the impugned order. Therefore, in my considered opinion, there is a huge delay in filing of the writ petition to challenge the impugned orders.

With these observations, the present petition is hereby dismissed on delay and latches.

30.01.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No