

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

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*CWP No.4419 of 2013 (O&M)*

*Date of Decision:17.04.2018*

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Praveen Singla

. . . . . 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.J.S. Chahal, Advocate, for  
Mr.Shiv Kumar Gupta, Advocate,  
for the petitioner.

Mr.Saurabh Mohunta, DAG, Haryana.

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***RAKESH KUMAR JAIN, J.***

The petitioner purchased a plot measuring 81 square yards in Khasra No.33/17 situated at Village Bhatauli, Tehsil Jagadhri, District Yamuna Nagar, which is 150 feet away from the Jagadhri-Ambala National Highway Road. According to the respondents, the petitioner has got the sale deed registered of the plot in question for residential purposes for an amount of ₹1,78,500/- and has paid the stamp duty of ₹8930/- though the area in which the plot in question is situated is a commercial area and the collector rate for the commercial property for the year 2009-2010 was ₹5500/- per sq. yards. Thus, the total value of the plot comes to ₹4,45,500/- for which the stamp duty required to be paid was ₹22,275/-, therefore, the petitioner was held liable to pay the additional stamp duty of ₹13,345/-. The case of the respondents is that the Collector, Jagadhari himself had visited the spot with Patwari Halqa on 22.03.2011 and found that the area is suitable from the

commercial angle as the people were found using the same for the commercial purposes after constructing the shops. The Collector also presumed from the size of the plot that it has been kept for commercial purposes, therefore, vide his order dated 22.3.2011, the Collector directed the petitioner to pay the additional stamp duty. The appeal filed against the said order was also dismissed by the Commissioner, Ambala Division, Ambala on 25.9.2012.

Aggrieved against both the orders, the present petition has been preferred only on the basis of the information received by the petitioner under the Right to Information Act, 2005 [for short 'the RTI Act'] and on the plea of discrimination on which notice of motion was issued by this Court on 28.2.2013.

Learned counsel for the petitioner has submitted that the respondents have not taken into consideration the important and relevant facts while asking the petitioner to pay the deficient stamp duty which has been done only on the basis of spot inspection and without holding any enquiry. In this regard, he has referred to a decision of this Court rendered in the case of ***"Madan Lal Vs. State of Punjab and others"*** 2008(3) RCR (Civil) 462. Further, learned counsel for the petitioner has submitted that the petitioner had sought the information under the RTI Act to the effect that as to whether any property in the same area has ever been registered as commercial on 27.4.2011 or not and as to whether any audit objection was raised in regard to the stamp duty by the auditor? It is submitted that the information supplied to the petitioner to both these questions is in negative, therefore, merely by spot inspection and presumption drawn by the

respondents, the petitioner cannot be saddled with the liability of additional stamp duty.

In reply, learned counsel for the respondents/State, while relying upon the finding recorded in the impugned order, has submitted that the size of the plot itself suggests that the plot is meant for commercial purpose and is situated in the commercial area for which the petitioner cannot be allowed to pay the stamp duty of residential area.

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

In this case, the Collector has inspected the site along with Patwari and presumed that since the size of the plot is 81 sq. yards, therefore, it is meant for commercial purposes and not residential. In the case of *Madan Lal (Supra)*, the Division Bench of this Court has held that for determining the prevalent market value of the property, the Collector cannot adopt his own opinion by visiting the spot without considering any comparative material to support his opinion.

In the present case, the petitioner has referred to the information gathered by him under the RTI Act in regard to the same properties sold in the area and are termed as commercial for the purpose of assessment of the stamp duty to which no data has been given.

Thus, in my opinion, the impugned orders are passed by the Collector and the Commissioner without looking into the aforesaid aspect of the matter, therefore, it would be just and expedient if the impugned orders are set aside and the matter is remanded back to the Collector to decide the *lis* between the parties afresh after holding a proper inquiry.

Accordingly, the writ petition is hereby allowed, the impugned orders are set aside and the matter is remanded back to the Collector to decide the *lis* again after holding a proper enquiry, in accordance with law.

The parties are directed to appear before the Collector on 14.05.2018.

(RAKESH KUMAR JAIN)  
JUDGE

17.04.2018

*Vivek*

*Whether speaking /reasoned : Yes/No*

*Whether Reportable : Yes/No*