

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

CWP No.5653 of 2015 (O&M)

Date of Decision:17.04.2018

Amarjit Singh

..... Petitioner

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Surinder Sharma, Advocate,
for the petitioner.

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

RAKESH KUMAR JAIN, J.

The petitioner has prayed for the issuance of a writ in the nature of certiorari for quashing the order of the Collector dated 23.8.2013 and of the Commissioner, Jalandhar Division, Jalandhar dated 30.5.2014 by which value of the property in question has been determined as ₹2,30,06,250/- and the petitioner has been directed to deposit ₹14,80,500/- as deficient stamp duty along with interest @ 12% p.a. thereon i.e. ₹6,21,810/- and in total ₹21,02,310/-.

In brief, Charanjit Singh s/o Milkha Singh as General Power of Attorney of his brother Paramjit Singh s/o Milkha Singh, executed a sale deed in favour of the petitioner for a sum of ₹45,00,000/- in respect of an area measuring 2 acre 4 kanal and 9 marla situated at Village Bidhipur, Tehsil and District Jalandhar-2, vide vasika No.6158 dated 18.02.2010. Paramjit Singh s/o Milkha Singh made a complaint to the Commissioner,

Jalandhar Division, Jalandhar that his brother Charanjit Singh s/o Milkha Singh has sold his 5 acre 18 marlas of land situated at village Bidhipur, Tehsil and District Jalandhar by way of two sale deeds in favour of Amarjit Singh and Dalbir Singh to the extent of an area measuring 20 kanal 9 marla each for a sale consideration of ₹45,00,000/- in each case on the basis of his power of attorney which was already cancelled by that time. He has alleged that an agreement had earlier been made by him as well as by his brother Charanjit Singh with Dalbir Singh for the sale of this land at the rate of ₹90,00,000/- per acre in which ₹40,00,000/- were received but the said agreement was subsequently cancelled on account of non-payment of balance price. He has further alleged that both the sale deeds have been under valued and the State exchequer has been put to a loss of ₹30,00,000/- by evasion of stamp duty and registration charges. He recommended initiation of proceedings under Section 47-A of the Indian Stamp Act, 1899 [for short 'the Act']. The Sub Registrar, Jalandhar –II referred the sale deed No.6158 dated 18.2.2010 to the Additional Deputy Commissioner, Jalandhar, exercising the powers of the Collector, Jalandhar, under the Act, for initiating proceedings under Section 47-A of the Act. Though, the sale deed was executed on 18.2.2010 but the action was initiated after 1½ year in terms of *suo motu* powers exercised under Section 47-A(3) of the Act by the Collector. The Collector vide his impugned order dated 23.8.2013 directed the petitioner to deposit the total amount of ₹21,02,310/- and thereafter the appeal filed by the petitioner before the Commissioner, Jalandhar Division, Jalandhar was dismissed on 30.5.2014.

Learned counsel for the petitioner has submitted that the proceedings could not have been initiated after 1½ year from the date of registration of sale deed but since the action has been taken under Section 47-A(3) of the Act in which the period of limitation is provided as 3 years, therefore, the action taken by the Collector, while exercising *suo motu* powers, cannot be questioned.

During the pendency of the writ petition, the petitioner also filed CM No.1176 of 2018 to place on record judgment rendered by the Civil Judge (Sr. Division), Jalandhar dated 7.3.2017. The said decision is pertaining to the suit filed by Paramjit Singh Bains s/o Milkha Singh brother of Charanjit Singh s/o Milkha Singh, who was the partner and has sold the land in question in favour of the petitioner herein, who was also arrayed as respondent No.2 in the suit and in which Paramjit Singh s/o Milkha Singh has also sought declaration that the sale deed dated 17.2.2010 bearing Vasika Number 6158 dated 18.2.2010 in respect of land measuring 2 acre 4 kanal and 9 marla is an act of fraud on the part of the respondents, who have got the sale deed executed and registered in collusion with each other. While the suit was pending, the petitioner filed appeal before the Commissioner, Jalandhar Division, Jalandhar stating therein that the suit is pending, therefore, the matter may not be heard and decided and at that time the counsel appearing on behalf of the petitioner, namely, Umesh Ohri made a specific statement/undertaking before the Collector that in case the suit pending before the Civil Court is dismissed then the petitioner would pay the entire dues claimed by the Government.

Actually, the petitioner, who is the purchaser of the property in question, was apprehensive that the suit filed by Paramjit Singh s/o Milkha Singh for declaration challenging the sale deed dated 18.2.2010 may not be decreed on the ground of fraud etc. and the petitioner may not have to pay the amount claimed by the respondents by way of the impugned order. Therefore, the petitioner through his counsel, Umesh Ohri, made the statement before the Collector, which read as under: -

“Stated that in the present case the concerned sale deed is challenged in the case titled as Paramjit Singh vs. Charanjit Singh before the Court of Avtar Singh Bardar, Addl. Civil Judge Sr. Div. Jalandhar and I on behalf of objector undertakes that in case the case pending in the civil court is dismissed the objector shall pay the entire dues claimed by the Government.”

Since, the suit filed by Paramjit Singh s/o Milkha Singh against Charanjit Singh s/o Milkha Singh (vendee) has been dismissed by the Civil Court on 7.3.2017, therefore, the petitioner is liable to pay the dues as undertaken before the Collector and cannot turn around to challenge the orders passed by the Collector and Commissioner respectively.

Learned counsel for the petitioner has though tried to disown the statement of his counsel but it is too late in the day to disown the same because if the statement was not made by the counsel on his behalf, he should have moved the said Court before whom the statement was made by

the counsel on his behalf, who had been through out asking the Court not to proceed with the matter till the civil suit is decided because the petitioner was afraid that he may not loose in the civil suit and the land in question purchased by him may not revert back to Paramjit Singh, which was allegedly sold by his brother Charanjit Singh as his attorney. The petitioner thus cannot be allowed to take a somersault to challenge the impugned orders in the wake of the statement made by his counsel on his behalf and hence, I do not find any merit in this petition for the purpose of interference.

Dismissed.

17.04.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No