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

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CWP No.6453 of 2015
Date of Decision:04.07.2018

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Smt. Harbhajan Kaur

. . . . . Petitioner

Vs.

State of Punjab and others

. . . . . Respondents

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CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

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Present: - Mr.Rajesh Goyal, Advocate, for
Mr.Pritam Singh Saini, Advocate,
for the petitioner.

Mr.Ayush Sarna, AAG, Punjab.

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RAKESH KUMAR JAIN, J.

The petitioner is aggrieved against the order dated 9.7.2010 passed by the Collector, Rupnagar and the order dated 21.9.2012 passed by the Commissioner, Rupnagar Division, Rupnagar.

In brief, a plot No.68 measuring 120 sq. mtrs. was allotted by the Improvement Trust, Rupnagar to Joginder Singh vide letter No.2543 dated 20.8.1993. Joginder Singh paid the consideration by way of installments and the last installment was paid by him on 20.5.1996. Thereafter, the petitioner purchased the said plot from Joginder Singh on 12.3.1999. After the purchase of the plot, it was to be formally transferred by way of registered sale deed, therefore, Vaskila No.561 dated 29.5.2009 was presented before the Sub Registrar, Rupnagar. Since the plot was agreed to be transferred for an amount of ₹83,280/-, therefore, the petitioner had deposited the stamp duty of ₹5900/- and paid the registration charges of ₹6733/-. The sale deed was registered but the Sub Registrar sent the reference to the Collector in terms of Section 47A of the Indian Stamp Act, 1899 on the issue as to whether the said deed was to be registered as per the Collector rate of ₹3000/- per sq. yards applicable to the residential area and 'A' class construction raised thereon at the rate of ₹500/- per square yard. According to the Sub Registrar, total sale consideration was ₹13,29,500/- upon which a stamp duty of ₹93,065 and registration fee of ₹10,000/- was required to be deposited. He thus, submitted that the petitioner had undervalued the said sale deed to the tune of ₹12,46,200/- and there is a deficiency of stamp duty of ₹87,165/- and registration fee of ₹9,167/-. The total deficiency was found to be ₹96,332/-. The Collector vide his impugned order dated 9.7.2010 agreed with the reference holding that the notification issued by the Department of Revenue & Rehabilitation Department, Government of Punjab dated 11.11.2009 would not apply as the original allottee i.e. Joginder Singh had already deposited the entire installments upto 20.5.1996 and the petitioner had purchased the plot on 12.3.1999. The appeal filed by the petitioner against the order of the Collector was also dismissed by the Commissioner on 21.9.2012 on the same ground.

Learned counsel for the petitioner has submitted that the respondents have misread the notification dated 11.11.2009 and has relied upon the order passed by this Court in CWP No.8557 of 2013.

On the other hand, learned counsel for the respondents has submitted that neither the notification dated 11.11.2009 would apply nor the decision dated 09.02.2015 rendered by this Court in CWP No.8557 of 2013 because in the present case the sale deed was presented for registration on 29.5.2009 which was much earlier than the notification dated 11.11.2009 and in CWP No.8557 of 2013, the sale deed was presented for registration whereas no date has been mentioned for presentation of the sale deed for registration except mentioning that the documents were presented for the registration before 31.12.2009.

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

The Department of Revenue and Registration, Government of Punjab issued a notification on 02.03.2009 to notify the Punjab Stamp (Dealing of Under-valued Instruments) (First Amendment) Rules, 2009 by which the following explanation was inserted to the Note of Rule 3-A of the Punjab Stamp (Dealing of Under-valued Instruments) (Fourth Amendment) Rules, 1983:-

> *"Explanation: - The consideration amount fixed at the time of allotment of immovable property by any Government/Semi Government Organization shall be deemed to be the Collector's rate and the stamp duty shall be charged for registration of document upon the consideration amount fixed by the Government / Semi Government Organization, provided that document is got registered by the original allottee within three mounts from issue of this notification*

> *or within three months from the payment of last regular installment as per schedule of payment of such allotment."*

The aforesaid notification was followed by another notification dated 20.5.2009 by which the Punjab Stamp (Dealing of Under-valued Instruments) (Second Amendment) Rules, 2009 were notified and the earlier explanation added to the Note of Rule 3-A was substituted, which read as under: -

> *"Explanation: - The consideration amount fixed at the time of allotment of immovable property by any Government/Semi Government Organization shall be deemed to be the Collector's rate and the stamp duty shall be charged for registration of document upon the consideration amount fixed by the Government / Semi Government Organization, provided that document is got registered by the original allottee upto 2nd September, 2009 from the issue of this notification or within three months from the payment of last regular installment as per schedule of payment of such allotment."*

There was another notification issued on 11.11.2009 by which the Punjab Stamp (Dealing of Under-valued Instruments) (Fourth Amendment) Rules, 2009 were notified and the explanation substituted vide notification dated 20.5.2019 added to the Note of Rule 3-A was further substituted with the following explanation: -

> *"Explanation: - The consideration amount fixed at the time of allotment of immovable property by any Government/Semi Government Organization shall be deemed to be the Collector's rate and the stamp duty shall be charged for registration of document upon the consideration amount fixed by the Government / Semi Government Organization, provided that document is got registered by the original allottee upto 31st December, 2009 by the original allottee or to the persons whom such property is transferred by the original allottee through Government/Semi Government organization, who is yet to pay full and final installments or legal heirs of the original allottee, in case of death of original allottee who yet to pay full and final installments or by legal heirs as prescribed in Section 8(a) of the Hindu Succession Act, 1956. If such heirs have been included by the allotting agency subsequently in the allotment letter; or on re-allotment after cancellation of allotment of*

> *original allottee the allotting agency or without three months from the payment of last regular installment as per schedule of payment of such allotment."*

In all the three notifications, it was provided by the Government of Punjab that the consideration amount fixed at the time of allotment of immovable property by any Government/Semi Government Organization shall be deemed to be the Collector's rate and the stamp duty shall be charged for registration of document upon the consideration amount fixed by the Government/Semi Government Organization. In the notification dated 02.03.2009, it was provided that *"the document is got registered by the original allottee within three months from issue of this notification or within three months from the payment of last regular installment as per schedule of payment of such allotment."* In the notification dated 20.5.2009, it was provided that *"document is got registered by the original allottee upto 2nd September, 2009 from the issue of this notification or within three months from the payment of last regular installment as per schedule of payment of such allotment"* and in the notification dated 11.11.2009, it was provided that *"document is got registered by the original allottee upto 31st December, 2009 by the original allottee or to the persons whom such property is transferred by the original allottee through Government/Semi Government organization, who is yet to pay full and final installments etc."*

In this case, admittedly, the allotment to the original lessee was made on 20.8.1993, who had deposited the entire amount upto 20.5.1996. The petitioner had purchased the plot in question from the original allottee on 12.3.1999 and presented the sale deed for execution and registration on 29.5.2009. In the background of these facts, notification dated 20.5.2009 would apply because it was in operation at that time of presentation of documents for execution and registration and not the notification dated 11.11.2009. As per the notification dated 20.5.2009, the consideration amount fixed at the time of allotment of immoveable property would be deemed to be the Collector's rate provided the document is got registered upto 2.9.2009 by the original allottee from the date of issuance of the notification or within three months from the payment of last regular installment. Neither the document was got registered by the original allottee upto 2.9.2009 before it was further sold to the petitioner nor within three months from the date of payment of last regular installment which was paid on 20.05.1996. Moreover, the petitioner cannot take advantage of the decision rendered by this Court in CWP No.8557 of 2013 because he has not given the facts of the said case nor the facts are recorded in the said decision.

Thus, I am of the considered opinion that there is no error on the part of the respondents in passing the impugned order and hence, the present petition is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

04.07.2018
Vivek

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