

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

1.

CWP No.8103 of 2018
Date of Decision:07.09.2018

Deepa Devi

..... Petitioner

Vs.

State of Haryana and others

..... Respondents

2.

CWP No.8104 of 2018

Deepa Devi

..... Petitioner

Vs.

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Ajay Jain, Advocate,
for the petitioner.

Mr.Saurabh Mohunta, DAG, Haryana.

RAKESH KUMAR JAIN, J.

This order shall dispose of 2 writ petitions bearing CWP Nos.8103 & 8104 of 2018 both titled as ***“Deepa Devi Vs. State of Haryana and others”*** as the issue involved in both the writ petitions is common. However, for the sake of convenience, the facts are being extracted from CWP No.8103 of 2018.

In brief, the petitioner along with respondent No.5 purchased land measuring 1 kanal 16 marla situated at Village Mandi Adampur District Hisar vide Vasika No.3300 dated 9.10.2012 for a consideration of ₹2,30,000/- by affixing the stamp of ₹6900/-. The sale deed was handed over to the petitioner by the Joint/Sub Registrar, Adampur after registration.

Adampur, vide Memo No.96 dated 18.6.2013, sent a reference to the District Revenue officer, exercising the power of the Collector, on the ground that the audit party had found deficiency of ₹1,23,300/- towards stamp duty and ₹14,000/- towards registration charges in the said sale deed. The prayer was made by the Joint/Sub Registrar, Adampur that the proceedings be initiated in terms of Section 47A(3) of the Indian Stamp Act, 1899 (as applicable to the State of Haryana) [for short 'the Act']. The proceedings were thus initiated by the Collector by issuing notice to the petitioner and vide his order dated 21.6.2017 the petitioner was asked to pay ₹1,37,300/- i.e. ₹1,23,300/- as deficient stamp duty and ₹14,000/- towards registration fee. The order of the Collector was challenged by the petitioner by way of appeal which was dismissed on 13.3.2018.

Learned counsel for the petitioner has submitted that the proceedings initiated under Section 47A(3) of the Act at the instance of the Sub Registrar is illegal.

In this regard, he has relied upon a decisions of this Court rendered in *CWP No.23687 of 2014* titled as ***"Zile Singh Vs. Commissioner, Hisar Divn. Hisar and others"*** decided on 30.3.2016, ***"Iqbal Singh and others Vs. State of Haryana and others"*** 2011(3) RCR (Civil) 365 and *CWP No.16283 of 2018* titled as ***"Rajesh Goyal and others Vs. The State of Haryana and others"*** decided on 08.08.2018 on the ground that the authorities are specifically mention in Clause 47A(3) of the Act, who can proceed for recovery of deficient stamp duty and not by the Joint/Sub Registrar by making reference under Section 47A(3) of the Act.

On the other hand, learned counsel for the respondents has submitted that due procedure has been adopted by the Collector while passing the impugned order and the Commissioner has also dismissed the

appeal on merits after referring to the decision in the case of ***Zile Singh (Supra)***.

I have heard learned counsel for the parties and perused the available record with their able assistance.

There is no dispute that the reference has been made by the Sub Registrar to the Collector under Section 47A(3) of the Act which is evident from the vernacular document of reference (Annexure P-1). It is also pertinent to mention that the authorities have been mentioned specifically under Section 47A(3) of the Act who may take *suo motu* notice i.e. the Collector, after a reference is received from the Inspector General of Registration or the Registrar of a District in whose jurisdiction the property or any portion thereof which is the subject-matter of the instrument is situated, appointed under the Registration Act, 1908 but it cannot be initiated on the reference having been made by the Sub Registrar, who had registered the document.

The case is fully covered by the decisions rendered by this Court in the cases of ***Zile Singh (Supra)***, ***Iqbal Singh and others (Supra)*** and ***“Rajesh Goyal and others (Supra)***.

In view thereof, the present petitions are allowed and the impugned orders in both the petitions are hereby set aside.

A photocopy of this order be placed on the file of connected case.

07.09.2018
Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No