**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

LPA-118-2018 (O&M)
Date of decision:- 14.08.2018

Aman Kumar
...Appellant
Versus

The State of Punjab and others
...Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE**
**HON'BLE MR. JUSTICE ARUN PALLI**

Present:- Mr. R.V.S. Chugh, Advocate,
for the appellant.

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**KRISHNA MURARI, C.J. (ORAL)**

CMs-252 & 253-LPA-2018

For the reasons mentioned in the applications, the delay of 24 days in filing and 22 days in re-filing the appeal is condoned.

The applications stand disposed of.

LPA-118-2018

This intra court appeal under Clause X of the Letters Patent has been filed by the appellant (petitioner therein) challenging the judgement and order dated 25.09.2017 passed by learned Single Judge dismissing the writ petition challenging the orders passed by the authorities under the Indian Stamp Act, 1899 (in short the Act) determining deficiency in stamp duty on conveyance deed executed in favour of the appellant by his father.

2. The facts relevant for the purposes of this case in nutshell can be capitulated as under:-

One Jiwan Kumar, father of the appellant, executed sale deed No. 8379 dated 31.03.2005. A complaint was made that the sale deed had been executed at a very low rate and proper stamp duty had not been paid causing loss to the State revenue.

An inquiry was made into the complaint and copy of the sale deed was sent to District Collector, Mansa for taking action under Section 47-A of the Act. Vide order dated 11.05.2007, the District Collector held that some of the area transferred by the conveyance deed was commercial and some residential and the schedule rate of commercial area was ₹ 17,50,000/- and residential area was ₹ 8,28,000/- and, thus, total value of the land under transfer was ₹ 25,78,000/- and there was deficiency in stamp duty and registration fee to the tune of ₹ 2,20,020/-. The order passed by District Collector, Mansa was challenged in appeal before Commissioner, Faridkot Division, Faridkot, which was dismissed vide order dated 31.10.2007. The matter travelled upto this Court in the form of CWP-2766-2008. On a concession given by learned State counsel that the orders dated 11.05.2007 and 31.10.2007 were non-speaking and cryptic, the writ petition was allowed on 26.02.2008 and the matter was remanded back to District Collector, Mansa for a fresh decision in accordance with law. Accordingly, Collector (ADC), Mansa after hearing the parties passed an order dated 03.06.2009 again determining the deficiency in stamp duty and registration fee to the tune of ₹ 2,20,020/-. On 02.06.2010, appeal filed against the order dated 03.06.2009 was allowed by Commissioner, Faridkot Division, Faridkot again remanding the matter back to Collector (ADC) Mansa for a fresh decision. Collector (ADC), Mansa in his order dated 13.08.2012 relied upon a statement made by the appellant that he was ready to pay the stamp duty at the Collector rate determined at the time of execution of the conveyance deed and accordingly confirmed the deficiency determined vide earlier order dated 11.05.2007. On 25.09.2013, appeal filed by the appellant was dismissed by Commissioner, Faridkot Division, Faridkot. Even the learned Single Judge relying upon the statement made by the appellant before the Collector that he was ready to deposit the stamp duty calculated at the Collector rate at the relevant time dismissed the writ petition.

3. Learned counsel for the appellant submitted that once the earlier order passed by the Collector was set aside by this Court and the matter was remanded back, the statement made by the appellant loses its efficacy and cannot be relied.

4. We are afraid the argument advanced by learned counsel for the appellant is totally misconceived and is not liable to be accepted. Any statement made by the appellant during the course of any proceedings, which is on record, the effect thereof cannot be wiped out on a remand made by the higher court for reconsideration. While reconsidering the matter, statement existing on record is liable to be taken into account. In such view of the matter, since the appellant himself made a statement before the Collector to make payment of the stamp duty at the Collector rate which was prevalent at the time of execution of the conveyance deed, we do not find any illegality either in the orders of the Collector or the appellate authority or the one passed by learned Single Judge, inasmuch as the deficiency in the stamp duty has been determined on the basis of the Collector rate fixed at the time of execution of the conveyance deed. No other illegality could be pointed out by learned counsel for the appellant in the order of the learned Single Judge, nor we have been able to find any after having gone through the same.

5. The appeal is, thus, devoid of merits and accordingly stands dismissed.

**(KRISHNA MURARI)**
**CHIEF JUSTICE**

**(ARUN PALLI)**
**JUDGE**

**14.08.2018**
**Amodh**

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|---|---|
| Whether speaking/reasoned | Yes/No |
| Whether reportable | Yes/No |