

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

LPA-424-2018 (O&M)

Date of decision:- 12.07.2018

Sham Lal Gupta

...Appellant

Versus

Commissioner, Faridkot Division, Faridkot, District
Faridkot and others

...Respondents

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

Present:- Mr. Aditya Dassaur, Advocate,
for the appellant.

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KRISHNA MURARI, C.J. (ORAL)

CM-1122-LPA-2018

For the reasons mentioned in the application, the
delay of 14 days in filing the appeal is condoned.

The application stands disposed of.

LPA-424-2018

This appeal under clause X of the Letters Patent has
been filed by the petitioner (appellant herein) challenging the
judgement and order dated 30.01.2018 passed by the learned
Single Judge dismissing the writ petition on delay and latches.

2. Facts in brief, relevant for the purposes of the
case, are as under:-

The petitioner was allotted plot No. 81 situated in
Anaj Mandi, Sardulgarh by the Administrator, New Mandi Township
in an open auction for a sum of ₹ 5,000/- on 18.06.1973. After
payment of installments of the consideration, a conveyance deed
was executed by the State of Punjab through Administrator on

deed for registration before the Sub Registrar, Sardulgarh on 26.04.2005. The conveyance deed was forwarded to respondent No. 2, namely, ADC-cum-Collector, Mansa to take action under Section 47-A of the Indian Stamp Act, 1899 for deficiency in stamp duty. The Collector after issuing notice to the petitioner and considering the matter passed an order dated 15.09.2005 assessing the value of the land at ₹ 5 lacs and determining the deficiency of stamp duty to the tune of ₹ 44,550/- and registration charges to the tune of ₹ 4950/- and imposing interest at the rate of 12% per annum. The petitioner went in statutory appeal before the Commissioner, Faridkot which was also dismissed on 29.09.2006. The petitioner thereafter slept over the matter and approached this Court by filing the writ petition after ten years of the passing of the impugned orders in the year 2015.

3. The sole basis on which the writ petition was preferred was an alleged amendment in the Punjab Stamp (Dealing of Under-valued Instruments) Rules, 1983 by way of Punjab Stamp (Dealing of Under-valued Instruments) Rules, 2009 notified on 11.11.2009. The petitioner is trying to take advantage of the explanation added in Rule 3-A which reads 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 (upto 31st March 2010) 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 allottees, in case of death of original allottee who is yet to pay full and final installment or by legal heirs as prescribed in Section 8(a) and Section 15(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 by the Allotting agency; or within three months from the payment of last regular installment as per schedule of payment of such allotment."

4. The learned Single Judge finding that there was inordinate delay and latches in filing the writ petition and the petitioner was not entitled to take advantage of subsequent amendment dismissed the writ petition on delay and latches. Relying upon the amendment quoted above, learned counsel for the petitioner vehemently contended that he was entitled to be extended the benefit of the said explanation brought in by way of amendment.

5. We are afraid, the reliance being placed by the petitioner to submit that he is entitled to be extended the benefit is mis-founded and the argument is totally mis-conceived. A bare perusal of the aforesaid notification goes to show that benefit of the said amendment has not been made available to such allottees who have paid the entire installments and got their conveyance deed registered. A plain reading of the explanation added by way of amendment goes to show that benefit is available to only such allottees who are yet to pay full and final installments.

6. Admittedly, in the case in hand, after payment of full and final installment, the conveyance deed was not only

executed, but also registered. Thus, even on merits the case of the appellant has no legs to stand.

7. In view of the above facts and discussions, we find no illegality in the order passed by the learned Single Judge in dismissing the petition as it was liable to be dismissed on both counts, merits as well as delay and latches.

8. The appeal accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

12.07.2018

Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No