IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-12237-2013
Date of Decision:-17.09.2019.

Birbal Singla and another

.....Petitioners

Versus

State of Haryana through Financial Commissioner and Principal Secretary to the Government of Haryana and others

......Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

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Present: Mr. H.R. Bhardwaj, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

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RAJIV NARAIN RAINA, J. (Oral)

1. The affidavit has been filed by the Collector, Thanesar, District Kurukshetra indicating that the land falls in residential area and is no longer agricultural land, while it once may have been.

2. Mr. Mohunta, DAG, Haryana informs the Court that the 2 kanal plot of land falls within the municipal area known as Birla Mandir Colony in a sea of residential houses. Therefore, stamp duty is leviable on the basis of residential area. The document Annexure P-7 relied upon by the petitioner is a private document. It is a letter of Ms. Manju Singla, the previous owner from whom the petitioners purchased the property, handed over to the Patwari who made a hand written note that the land purchased by Ms. Manju Singla, wife of Inder Singla was *Chahi* in nature and there was

cultivation on spot. The report is based on *Khasra Girdhawari* No.211/19/3 for the year 2007-08. This is not an official document on the record of the District Administration in Kurukshetra and no reliance can be placed on it in the matter of levy of stamp duty and registration charges. The document is not found on official record as asserted by Mr. Mohunta, DAG, Haryana, on instructions from Mr. Jarnail Chand, Registry Clerk, Office of Sub Registrar, Thanesar, Kurukshetra present in Court. It has been mentioned that the sale deed was registered on 29.06.2007. The argument that the proceedings were initiated after an inordinate delay of 18 months is repelled by Mr. Mohunta on the strength of Section 47-A of the Indian Stamp Act as applicable to Haryana which prescribes as follows:-

> ***"47-A. Instruments under-valued how to be dealt with.-***
> *(1) If the Registering Officer appointed under the Registration Act, 1908, while registering any instrument transferring any property has reason to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon.*
> *(2) On receipt of reference under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, determine the value or consideration and the duty as aforesaid and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty.*
> *(3) The Collector may suo motu or on receipt of reference 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, shall, within three years from the date of registration of any instrument, not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of its value or consideration, as the case may be, and the duty payable thereon and if after such examination, he has reasons to believe that the value or consideration has not been truly set forth in the instrument, he may determine the value or consideration and the duty as aforesaid in accordance with the procedure provided for in sub-section (2); and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty :

Provided that the Collector shall, within a period of two years from the date of the commencement of the Indian Stamp (Haryana Amendment) Act, 1973, also be competent to act as aforesaid in respect of the instruments registered on or after the first day of November, 1966 and before the fist day of October, 1970.

(4) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may, within thirty days from the date of the order, prefer an appeal before the [the Commissioner of the Division] and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules made under this Act.]"

3. In view of this legal position, there is no merit in the contention of the petitioner that the demand for higher stamp duty was illegal. I find no infirmity in the impugned order treating the land as residential and applying

the Collector rates accordingly. The petition is dismissed.

4. With the dismissal of this petition, a direction is however, issued to the authorities that the Collector rates will be fixed as prevailing in the year 2007 and not as per the current rates. The amount of deficiency of stamp duty as was assessed by the Collector is liable to be paid by the petitioners. Once the amount is paid, the sale deed be released in favour of the petitioners.

(RAJIV NARAIN RAINA)
JUDGE

September 17, 2019.
sandeep

Whether speaking/reasoned:- Yes / No

Whether Reportable:- Yes / No.