202 IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.10600 of 2018.
Date of Decision: 26.08.2019

Gurdas Garg

.......Petitioner

Versus

State of Punjab and another

........Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- None for the petitioner.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

JITENDRA CHAUHAN J.

By way of the instant writ petition filed under Article 226 of the Constitution of India, the petitioner seeks quashing of order dated 26.09.2014 (Annexure P-1) passed by Additional Deputy Commissioner-cum-Collector, Bathinda and; order dated 03.05.2017 (Annexure P-3) passed by Commissioner Faridkot Division, vide which recovery of Rs.1,03,950/- was ordered to be effected from the petitioner towards deficiency of stamp duty and registration in respect of sale deed No. 5794 dated 27.09.2010.

None has caused representation on behalf of the petitioner.

It is pleaded in the writ petition that the petitioner had purchased land measuring 1 kanal 13-1/3 marla vide registered sale deed No. 5794 dated 27.09.2010 for a sale consideration of Rs.3,45,000/-. A notice dated 20.12.2013 followed by two notices dated 24.02.2014 and 28.08.2014 were issued to the petitioner for appearance before Additional District Collector but the petitioner did not appear before respondent No.1 accordingly, the impugned *ex parte* order dated 26.09.2014 (Annexure P-1) was passed. When the petitioner came to know about the order dated 26.09.2014, he preferred an appeal which was dismissed vide order dated 03.05.2017 (Annexure P-3). The petitioner had raised two-fold grounds before the Commissioner (i) that he was never served with any notice and the order dated 26.09.2014 was passed at his back; (ii) that the sale deed was executed and registered on 27.09.2010 but the notice was given on 20.12.2013 i.e. after three years of execution of sale deed which is not permissible as per Section 47-A(3) of the Indian Stamp Act, 1899.

On the other hand, on behalf of the respondents, it is submitted that the petitioner had paid stamp duty and registration fee at the rates applicable to agriculture land whereas, he was required to pay the stamp duty and registration fee at the rates applicable to residential area as mentioned at Sr. No.36/21 of the collector rates list. The said error came to the notice of the department on receipt of the audit report and accordingly, the Sub Registrar, Bathinda submitted a detailed report vide notice/letter No.879/R.C. Dated 16.08.2013 (Annexure R-1). The recovery proceedings were initiated well within three years as the sale deed was registered on 27.09.2010 and notice/report was sent on 16.08.2013.

Heard.

As per record, the petitioner had paid the stamp duty as per the rates applicable to agriculture land whereas, the same was required to be paid as per the rates applicable to residential area as the property is situated in the residential area. As regards, the limitation point, it has come on the record that sale deed was executed and registered on 27.09.2010 and the notice/report was sent on 16.08.2013 which is well within three years. The principle of natural justice was taken care of by the Divisional Commissioner as the appeal was decided after hearing the petitioner. Even otherwise, the petitioner was served with three notices dated 20.12.2013, 24.02.2014 and 28.08.2014 for appearance before the Additional District Collector, Bathinda but the petitioner chose not to cause appearance before the Collector, therefore, there was sufficient compliance with the principle of natural justice.

No ground for interference is made out.

Dismissed.

26.08.2019. **(JITENDRA CHAUHAN)**
SN **JUDGE**

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