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

CWP No. 10676 of 2018.
Date of Decision: 04.02.2019.

Dharminder Kumar and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Vinod Khunger, Advocate, for the petitioners.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

JITENDRA CHAUHAN.J.(ORAL)

The petitioners seek quashing of order dated 21.01.2016 (Annexure P-5) passed by Collector/ADC (General), Ferozepur and order dated 06.10.2017 (Annexure P-6) passed by Commissioner, Ferozepur Division, Ferozepur vide which an amount of Rs.5,78,250/- was ordered to be recovered from the petitioners towards stamp/registration fee.

Learned counsel for the petitioners states that the nature of the land at the time of purchase by the petitioners was agriculture, therefore, the residential rate cannot be charged from the petitioners. It is further stated that the matter is still pending consideration with the Vidhan Sabha. It is further submitted that no reference under Section 47-A of the Indian Stamp Act could be initiated on the alleged report of Audit party.

Learned State counsel informs that the petitioner in connivance with the Registering Authority concealed the material fact with regard to the nature of land and khasra numbers 62 to 67 which are marked for residential special zone were not reflected in the application, therefore, he prays for dismissal of the present petition. Moreover, khasra numbers have not been mentioned in the sale deed intentionally to conceal the nature of land in order to avoid applying of commercial rate.

Section 47-A(2) and (3) of the Stamp Act read as under:-

> "(2) On receipt of reference under sub-section (1), the Collector shall, after giving the parties reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules 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.
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> (3) The Collector may suo motu, or on receipt of reference from the Inspector General of Registration or the Registrar of a district, appointed under the Registration Act, 1908 (Central Act No. 16 of 1908), in whose jurisdiction the property or any portion thereof which is the subject matter of the instrument is situate, shall, within two 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

reason to believe that the value of 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 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."

From a bare perusal of the aforesaid provisions, it is clear that Collector is fully competent to initiate reference on the audit report. The petitioners are residents of District Ferozepur and have purchased land in the joint names of the petitioners, namely, Dharminder Kumar, Anju Bala, Monika, and Nichhchal Garg and Neeru Garg and one Vidya Sagar. Even there is no averment that the petitioners are farmers. Immediately after the purchase of the land, the application was moved for the change of land user which was allowed. There is ample evidence that the land was purchased for the reasons other than the stated in the application made before the Registering Authority. As the registered document is itself faulty, procured by the petitioners on concealment of facts, therefore, no fault can be found with the impugned orders at this stage.

Dismissed.

04.02.2019. **(JITENDRA CHAUHAN)**
SN **JUDGE**

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