

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

CWP No. 1532 of 2018 (O&M)

Date of Decision: 07.11.2019.

Asha Rani

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Inderjit Sharma, Advocate,
for the petitioner.

Ms. Anju Arora, Addl. AG Punjab.

Mr. K.S. Dadwal, Advocate,
for respondent No.5.

JITENDRA CHAUHAN.J.(ORAL)

Through the instant civil writ petition, the petitioner has sought quashing of complaint dated 18.07.2017 (Annexure P-6) filed by respondent No.5 and memo/order bearing No. 1570/HRC dated 07.12.2017 (Annexure P-8) issued by respondent No.2 vide which a direction was issued to register a criminal case under Section 82 of the Indian Registration Act (for short “the Act”) against the petitioner and witnesses to the sale deed.

It is contended by the learned counsel for the petitioner that respondent No.5 along with his brothers, namely, Sukhdev Singh, Balwinder Singh and Paramjit Singh filed suit civil No. RBT No.25 dated 23.10.2000 for possession after removal of super structure over the property No.56/57 within Lal Lakir situated in village Atalgarh

Tehsil Mukerian District Hoshiapur against the petitioner and one Gurbaksh Singh son of Lehna Singh before Civil Court, Mukerian. In the civil suit, the petitioner pleaded that she had purchased the plot in dispute from defendant No.2 Gurbaksh Singh vide sale deed dated 11.04.2000 for sale consideration of Rs.2,21,000/-and after the purchase, construction was raised thereon in the presence of the plaintiff but no objection was raised at that time. The suit was decreed vide judgment and decree dated 31.01.2011 (Annexure P-1). The first appeal filed by the petitioner was dismissed thereafter the petitioner filed RSA No.2925 of 2013 which was dismissed vide judgment dated 20.01.2014 (Annexure P-3). Thereafter, respondent No.5 filed an execution applicant bearing No. 51 of 2015 which was resisted by the petitioner by way of objections. The execution application was dismissed as having been rendered infructuous vide order dated 25.05.2017 (Annexure P-4) directing respondent No.5 to seek partition of the suit property. The order (Annexure P-4) was challenged in CR No. 4621 of 2017.

It is further contended that as respondent No.5 failed to get possession of the suit property in the execution proceedings, in order to settle the score, he has lodged impugned complaint dated 18.07.2017 (Annexure P-5) with respondent No.2 Deputy Commissioner, Hoshiarpur for impounding the sale deed dated 11.01.2016 executed by Sukhdev Singh, Balwinder Singh and Paramjit Singh sons of Tehal Singh in favour of the petitioner. On the basis of the said complaint,

respondent No.4 conducted a biased inquiry and sent report (Annexure P-7) to the SDM Mukerian/respondent No.3. On receipt of the report, respondent No.2, Deputy Commissioner, Hoshiarpur issued impugned notice/memo No. 1570/HRC dated 07.12.2017 (Annexure P-8) to respondent No.4 directing him to get a criminal case registered against the parties to the sale deed and witnesses in view of the provisions of Section 82 of the Act.

It is further contended that the impugned notice is bad in law because original complaint (Annexure P-6) is result of *mala fide* and counter-blast to the earlier litigation. There was no fraud or misrepresentation on the part of the petitioner. The petitioner is a *bona fide* purchaser of property. If at all the sale deed is under-valued, the same ought to have been dealt with under Section 47-A of the Indian Stamp Act. The petitioner had received a notice dated 21.12.2017 (Annexure P-10) under Section 47-A of the Indian Stamp Act however, the same is not the subject matter of challenge in the present writ petition.

On the other hand, on behalf of respondent Nos. 1 to 4, it is contended that upon a complaint dated 18.07.2017 (Annexure P-6) filed by respondent No.5, an inquiry was conducted by respondent No.4 Sub Registrar Mukerian after giving full opportunity of hearing to both the parties. It was found that the sale deed had been got registered by concealment of facts as the land was shown to be a vacant plot

whereas, it was a house. Therefore, the impugned order has been

rightly passed.

On behalf of respondent No.5, it is contended that in compliance with the decree passed by the Civil Court, super structure has to be removed. The factum of purchasing the property will not nullify the effect of the decree. The executing Court has erred in holding that since judgment debtor has become the co-sharer in the property, the objections were wrongly allowed. The sale deed dated 11.01.2016 was got registered by undervaluing the property showing the house as plot thereby a huge loss has been caused to the Public Exchequer.

Heard.

The relevant portion of the impugned order is reproduced as under:-

“1. Parties got registered sale deed by mentioning wrong facts and sale deed was registered by showing vacant plot instead of house. Hence, action under Section 47-A of the Indian Stamp Act be initiated with immediate effect and case be referred to Collector (Additional) Deputy Commissioner, Hoshiarpur to assess the amount the copy in this regard be sent to this office.

2. Sh. Joginder Singh has wrongly attested as Panch and the parties have got registered the sale deed by concealing true facts. Hence by exercising the powers under section 83 of the Indian Registration Act, the police department be

written to get registered criminal case under Section 82 of the Indian Registration Act against the parties as well as witnesses and copy in this regard be sent to this office.”

It emerges from the record that a civil litigation is pending between the petitioner and respondent No.5. However, this Court would not comment upon the same, as the same is not the subject matter of the present writ petition. So far as the present controversy is concerned, the petitioner feels aggrieved by the directions issued vide order dated 07.12.2017 (Annexure P-8). It is recorded in the impugned order that the sale deed has been got registered by showing the land as vacant plot whereas, it was alleged to be a house. This Court feels that if the sale deed is undervalued, the registering authorities can initiate appropriate action under the Indian Stamp Act. Further, the sale deed was attested by one Joginder Singh and Jograj Panch Gram Panchayat Atalgarh. It is alleged that Joginder Singh who is not a Panch, had attested the sale-deed by impersonating as a Panch. In this context, it is observed that the sale deed was attested by one Panch, namely, Jograj, Gram Panchayat Atlagarh, therefore, there was no necessity to attest the said deed by another Panch Gram Panchayat Atalgarh. It must be a result of *bona fide* mistake on the part of deed-writer. The same has not resulted into causing any loss to any of the parties.

In view of the above, the impugned direction to the extent of ordering registration of FIR is hereby quashed. However, the State is at liberty to re-assess the property. If it is found undervalued, the

necessary action as per law be taken against the petitioner.

The writ petition stands disposed of in the manner indicated above.

07.11.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

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