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

CWP-18603-2018
Date of decision: 26.8.2019

Kamal

...Petitioner

Versus

Commissioner, Ambala Division, Ambala and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.SS Dinarpur, Advocate for the petitioner

Mr.Vikrant Pamboo, DAG, Haryana

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JITENDRA CHAUHAN, J.

The present petition under Articles 226/227 of the Constitution of India has been filed for quashing the order dated 15.1.2014 (Annexure P-1) passed by respondent No.2 and the order dated 4.4.2018 (Annexure P-2) passed by respondent No.1, whereby the petitioner has been directed to deposit an amount of Rs.96,750/- on account of alleged deficiency of stamp duty on the basis of the reference made by Sub Registrar, Panchkula to the Collector in respect of the sale deed dated 24.10.2011.

Learned counsel for the petitioner refers to Section 47-A of the Indian Stamp Act to contends that the order dated 15.1.2014 (Annexure P-1) was passed in contravention to the said provisions. He further argues that the agricultural land measuring 2 kanal 12 marlas situated at village Kot, H.B. No.238, Tehsil and District Panchkula was purchased by the petitioner vide sale deed dated 24.10.2011 for a total sale consideration of Rs.13,0000/- and the requisite stamp duty of Rs.65000/- was paid by him at the time of registration of the sale deed but now vide order dated 15.1.2014, passed by Collector -cum- DRO, Panchkula, the petitioner has been directed to deposit a sum of Rs.96,750/- account of deficiency of stamp duty, as the same was already declared as a residential zone. The stamp duty was paid as per the prevailing collector rates and no objection was raised by the Registering Officer at the time of registration of the sale deed. There is no record to the effect that the same was within the residential zone at the time of registration of the sale deed.

On the other hand, the learned State counsel submits that the land in question has already been declared as residential zone vide Notification dated 29.10.2007, copy of which is being placed on record as Mark 'A'. He has also placed on record the 'site map', which is also taken on record as Mark 'B'. Thus, the order passed by the respondent authorities are legal and valid.

Heard.

The relevant provisions of Section 47-A of Indian Stamp (Haryana Amendment) Act, 1973, in support of his contention, read as under:-

> *"Haryana – After Section 47 of the principal Act, the following new section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of November, 1966, namely: -*
> *"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 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 situate, 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 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 first 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 District Judge and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules may under this Act".

The land purchased by the petitioner had been already declared as residential zone by the Haryana Government vide Notification dated 29.10.2007. The petitioner by concealing the facts, got the sale deed registered by showing the land out of the residential zone, whereas it was situated in the residential zone and the collector rates of residential zone and the agricultural land were different.

The language of sub-section (3) of Section 47A (ibid) makes out that the Registering Officer 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 correctness of its value or consideration. After such an exercise, if 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 shall be payable by the person liable to pay the duty. Thus, the petitioner has been rightly directed to make the deficiency of stamp duty good as per the collector rate prevailing in the area concerned. There is no flaw in the impugned orders passed by the authorities below.

No ground is made out to interfere in the matter.

Consequently, the writ petitions is dismissed.

26.8.2019
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned? Yes / No

Whether reportable? Yes / No