IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-26133-2015
Date of Decision:-20.09.2019.

Shiv Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

****

Present: Mr. Tribhawan Singla, Advocate for the petitioner.

Ms. Simran Grewal, AAG, Haryana.

****

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioner had purchased 15 marlas of land comprised in Khewat No.585, Khasra No.64//23/1(6-0) situated at backside Ghunas Road, Tapa-A, Tehsil Tapa, District Barnala for a total consideration of Rs.5,53,500/-. The sale deed was impounded by the Sub Registar, Tapa on the proposed ground of deficient stamp duty of Rs.57,955/- as per market value and sent a reference to the District Collector, Barnala, who further called for a report from the Sub Divisional Magistrate, Tapa. The SDM in his report dated 29.09.2014 advised that the land is agricultural in nature and there is no residential habitation near about the site and is far from the *abadi* and in the area. He found paddy grown and the passage to this area is through non-metalled (*kachi pahi)* but which access through farmland. His inquiry affirmed that the sale deed was as per agreement and the market value of the land was Rs.20,00,000/- per acre. However, the Additional Deputy Commissioner, Barnala in reference proceedings relied on the

statement of one Smt. Veerpal Kaur, Clerk (outsourcing), HRA Branch deposing that the area under the sale deed comes under Code No.Irri-18/1 and its Collector rate is Rs.2500 per square yard and assuming that this rate was the Collector rate, proceeded to order payment of stamp duty and registration fee including computer fee totaling Rs.57,955/- in favour of the revenue and against the petitioner.

2. The Divisional Commissioner, Patiala Division, Patiala upheld the order of the Collector taking it to be a case of evasion of stamp duty and registration fee. He again relied on the statement of Smt. Veerpal Kaur and the disputed plot falling in Code Urra-3(E). However, no pointed reasons have been assigned to disagree with the reports of the Revenue Authorities. If the Revenue Authorities and the report is to be believed, the land does not fall in municipal limits and, therefore, the identity of the land is in serious dispute. Besides the basic guidelines relied upon by the State in its written statement being the Collector market rates for Sub-Registrar, Tapa for the period from 01.04.2012 to 14.07.2014 during which period the sale deed was presented for registration are not met. The rates of agricultural and residential land in the village are found in Annexure R-1 appended with the written statement. As per this document, the land purchased by the petitioner bearing *khasra* No.64//23 falls in Code No.A.3E over land measuring up to 2 *kanals* on both sides of the road from Khunas Tapa to Barnala Road the collector rate is recorded as Rs.45,00,000 per acre. Whereas, the respondents have relied upon the statement of Smt. Veerpal Kaur Code Irri A.18/1 and the contents of internal page 14 of the basic guidelines (R-1) where the land is shown within the municipal limits and its price is recorded as Rs.2500 per square yard. But there is a strong disclaimer of this fact when in the report

of the revenue authorities the land is described as not falling within the municipal limits of Tapa municipality. If the land does not fall within the municipal limits and falls in Code A.3E, then keeping in mind that the Collector rate is Rs.45,00,000/- per acre, the value of 15 *marlas* of land works out to Rs.4,21,875/-, whereas, the sale consideration is more than that i.e. even more than the Collector rate which latter reflects the true market value of what an intending seller may expect and a buyer may offer.

3. I find there is enough material on record for this Court to hold that both the orders of the Collector and the Divisional Commissioner are erroneous and based on a wrong notion thinking the plot is a residential plot falling within the municipal limits and in non-agricultural in character.

4. Having heard learned counsel for the parties at length, this Court is convinced that the matter is to be resolved in favour of the petitioner on the basis of the character of the land on the date of registration of the sale deed.

5. In view of the above reasons, this petition is allowed. Consequently, the impugned orders dated 20.11.2014 (P-2) and 20.05.2015 (P-4) are set aside. Since the stamp duty and registration charges have been paid on the sale consideration as per the prevalent collector rates, if not more, the respondents are directed to release the impounded sale deed in favour of the petitioner within two months from the date of receipt of a certified copy of this order.

(RAJIV NARAIN RAINA)
JUDGE

September 20, 2019.
Sandeep

Whether speaking/reasoned:- Yes

Whether Reportable:- Yes / No.