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

CWP No. 20683 of 2018.
Date of Decision: 08.02.2019.

Sudarshana Devi and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Binderjit Singh, Advocate,
for the petitioners.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

JITENDRA CHAUHAN.J.

The petitioners have sought quashing of order dated 18.07.2016 (Annexure P-4) passed by Additional Deputy Commissioner-cum-Collector, Bathinda-respondent No.2 vide which the petitioners have been directed to pay additional amount of Rs.6,00,845/- along with interest @ 12% per annum on account of deficiency of stamp duty and registration fee. The petitioners have also sought quashing of notice dated 18.07.2016 (Annexure P-5) and order dated 28.02.2018 (Annexure P-7) vide which appeal of the petitioners was dismissed.

It is contended that the Collector while passing the impugned order has committed error by relying upon the report of Audit party. There was no evidence or material to proceed against the petitioners under Section 47-A of the Indian Stamp Act (for short "the

Act”). There is no evidence of any under-valuation of the property. Before passing the impugned order, the petitioners were not afforded an opportunity of hearing. The Collector had not initiated proceedings of his own i.e sou motu and all the proceedings were initiated on the basis of audit memo which is impermissible in law.

On the other hand, it is contended that the petitioners got sale deed No.165 dated 10.04.2013 registered against the land measuring 3 kanals 11.11 Marlas which is Gair Mumkin residential property. The collector rate of similar residential property is at Rs.4000/- per sq. yards as such, there is deficiency of stamp duty to the tune of Rs.6,00,845/-. After the sale deed, an audit was conducted vide letter dated 22.03.2016. The petitioners were immediately issued notice regarding deficiency of stamp duty.

Heard.

The record reveals that the petitioners were issued notices on 10.04.2016 and 18.07.2016 and they were served as per the report of the Tehsildar, Phul. The petitioners had got the sale deed registered by showing the gair mumkin residential area as agricultural land. The revenue record shows the land to be gair mumkin land. The price of the land in question was Rs.86,04,310/- whereas, the sale deed was registered for sale consideration of Rs.12,50,000/- which is less than the collector rate. As per Section 47(3) of the Act, the Collector may suo moto call for and examine any instrument for the purposes of satisfying himself with regard to the correctness of the value of the property or of the consideration thereof.

No ground is made out for interference.

Dismissed.

08.02.2019. **(JITENDRA CHAUHAN)**
SN **JUDGE**

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