

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

CWP-4126-2016

Date of decision : 12.03.2019

**The Satrod Khurd Co-operative
House Building Society Ltd.**

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.Naresh Kaushik,, Advocate,
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JITENDRA CHAUHAN J. (ORAL)

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a writ of Certiorari quashing impugned order dated 23.10.2013 (Annexure P-4), passed by respondent No.3 and order dated 31.07.2015 (Annexure P-6), passed by respondent No.2, whereby, the petitioner-Society has been ordered to pay deficient stamp duty to the tune of ₹4,87,995/- and ₹14,000/-.

It is contended that the previous owner of the land in question had got registered a sale deed No.9361 dated 25.11.2004 wherein, the nature

of land had been shown as 'agricultural land'. Further, the said land is situated in Village Satrod and not in the locality of City Hisar. However, the respondents have wrongly considered the land as commercial/residential. The authorities have failed to appreciate that it is not a sale deed as the petitioner had got registered the award passed by the Arbitrator. As per Section 12-A of the Indian Stamp Act, the stamp duty on the award is payable at the rate of one and a half per cent. The petitioner had also got registered award No.2048 dated 28.05.2008 and made the payment of stamp duty on the said rate, therefore, there is no deficiency of the stamp duty.

On the other hand, learned State counsel submits that in order to evade the payment of stamp duty and also to bypass the ban on transfer of property imposed during the relevant period, devised a method of incorporating 'Arbitration Clause'. The arbitration proceedings were launched on flimsy grounds by raising a false dispute of balance payment of ₹3,49,000/-.

Heard.

During the routine audit conducted by the Stamp Auditor, Hisar Circle, Hisar, it was found that the location of the land under reference is notified to be valued at a collector rate of ₹6,000/- per square yard. Thus, the total value of 1 Kanal 19 Marlas land ought to have been ₹70,78,500/- on which a stamp duty of ₹4,95,495/- was payable, however, the petitioner society only paid a stamp duty of ₹7,500/-. It was found that the petitioner in order to avoid payment of full stamp duty as well as to bypass the ban

imposed on the transfers at the relevant time, devised a method of invoking arbitration proceedings by creating a false dispute and thus got Award No.2048 dated 28.05.2008 passed in its favour. The petitioner society had taken a totally unexplained stand that it could not make payment of balance sale consideration due to some unavoidable circumstances but no explanation has been given by the petitioner in this regard. Further, the name and nature of work of the petitioner-Society makes it clear that the land had been purchased for carving out plots and not for the agricultural purposes.

In this view of the matter, this Court does not find any illegality in the impugned orders and the same are hereby affirmed.

Consequently, the writ petition is dismissed.

12.03.2019

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No