

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 17.10.2019****CWP No.8746 of 2017 (O&M)**

Vijay Laxmi

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vinod S. Bhardwaj, Advocate, for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

1. The disputes relates to payment of stamp duty on a small property measuring 22.5 square yards in the Housing Board Colony, Sirsa Road, Phase – III, Hisar. The property in question owned by the petitioner is situated in the Housing Board Commercial Complex Phase-III, Hisar. The respondent-Housing Board, Haryana has addressed letter to the Tehsildar, Hisar (Mark-A dated 17.09.2018) advising that commercial activity can be carried out in the property in dispute. The site plan of the area where the property is situated is a row of shops/booths, some of which have already been built up as the photograph suggests, stapled on the first page of Mark-A, which is an additional copy supplied by Mr. Mohunta at the hearing and labeled as Mark-B.

2. After the Housing Board vouchsafes that the property in dispute is commercial in nature, then it was open to the Sub Registrar to open proceedings under Section 47 of the Indian Stamp Act, 1899 and levy commercial rates of stamp duty and registration charges for transfer of property.

3. The main contention of Mr. Bhardwaj may be noticed. He submits that the Commissioner, Hisar Division in the impugned order dated 10.01.2017, passed in appeal, has assigned an irrelevant consideration in accepting the property as commercial in nature because of its location, which otherwise falls in a prime area between Anaj Mandi and the FCI building. The small plot numbered 24 is also not useful for any other land use and therefore, the valuation done is on the basis of potential of the property and this approach is impermissible. To my mind, the reasoning adopted by the Commissioner is not wide off the mark and bears relevance to the true nature of the property, especially when read with the declaration of the Housing Board Haryana that commercial activity can be carried out in the property, which they call a booth, located at the present site. It bears no residential character falling in a row of commercial shops some of which are built up. The petitioner is the last of the successive purchasers of Plot 24 against whom proceedings were initiated for fixing insufficient stamp duty on the sale deed.

4. Accordingly, I find the instant petition devoid of merit, there being no legal or factual error in the proceedings and accordingly would hereby dismiss it.

17.10.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>