

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

L.P.A. No.2062 of 2016 (O&M) in
Civil Writ Petition No.20872 of 2016
Reserved on : August 17, 2019
Date of decision: September 19, 2019

Savita Garg ...Appellant

Versus

State of Haryana and others ...Respondents

L.P.A. No.2069 of 2016 (O&M) in
Civil Writ Petition No.20909 of 2016

Savita Garg ...Appellant

Versus

State of Haryana and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Ajay Jain, Advocate for the appellant.

Mr. Gagandeep Singh Wasu, Addl. A.G., Haryana.

HARINDER SINGH SIDHU, J.

This judgment shall dispose of the above mentioned two LPAs as similar questions of fact and law arise therein.

Both these LPAs are directed against the common judgment and order dated 05.10.2016 of the learned Single Judge whereby CWP No.20872 of 2016 and CWP No.20909 of 2016 filed by the appellant were disposed of with some directions.

In both the Writ Petitions the appellant had challenged the orders dated 09.09.2015, passed by the Collector, Hisar, whereby, the appellant was directed to pay deficient stamp duty and the orders 16.08.2016 passed by the Commissioner, Hisar Division, Hisar, whereby her appeals there-against had been dismissed.

The appellant purchased two plots measuring 280 sq. yards and 479 Sq. yard area vide two sale deeds dated 30.10.2012 and 25.08.2011 respectively claiming them to be residential plots. She paid the stamp duty accordingly.

A complaint was made by one Tej Pal s/o Jagmal regarding payment of deficient court fee by the appellant. An enquiry was conducted which revealed that the plots purchased by the appellant were commercial plots and not residential plots. The appellant by not paying stamp duty on the said area as per commercial rates had caused huge financial loss to the government. The plots were situated in front of Central Warehouse-I, Hisar on Hisar-Delhi Road, near Dabra Chowk. As per Collector's rate approved by the District Collector, Hisar, the rate for the area from Bus Stand to Dabra Chowk was Rs.50,000/- per square yard. However, as the land in question was not situated on the main road but was located at Dabra Chowk beneath Railway over bridge at the left side, where, on account of Bagar Railway Line, the road is closed, instead of the Collector rate of Rs.50,000/- per square yard the value was determined as Rs.40,000/- per square yard. Accordingly, the total sale consideration of the plot was determined as Rs.1,16,32,000/- (280 x 40,000=1,12,00,000/-+540 x

800=4,32,000/-) (total 1,12,00,000 + 4,32,000= 1,16,32,000/-) upon which as per law stamp duty of Rs.5,81,600/- (5%) and Rs.15,000/- as registration fee was payable. However, the appellant had got it registered for a consideration of Rs.27,80,000/-, on which stamp duty of Rs.1,39,000/- and registration fee of Rs.15,000/- was paid. Vide order dated 09.09.2015 of the Collector Hisar, the appellant was directed to deposit the balance stamp duty of Rs.4,42,600/- within 30 days.

The appellant preferred two appeals before the Commissioner, Hisar Division, Hisar which were dismissed vide order dated 16.08.2016. In his order, the Commissioner recorded that both the properties were adjoining properties. The purchaser wants to build commercial building by demolishing the old construction. The old construction had already been demolished. The appellant also gave undertaking that she was willing to pay whatever composition fee is applicable. The appellant's counsel argued that he was willing to pay the deficient stamp duty but the Municipal Corporation should pass map for commercial building. Based thereon the learned Commissioner concluded that the under valuation had been admitted by the appellant and she was also willing to pay the difference of stamp duty as per commercial property. It was also noticed that the Collector had given the partial relief due to the location of property. Accordingly, the appeals were dismissed.

Aggrieved from above order, the petitioner filed the Writ Petitions which have been disposed of by the impugned order dated 05.10.2016. Considering the location of the plots, the willingness of the

appellant to pay at the commercial rates if the plans for commercial building were sanctioned which was construed as an implicit admission by the appellant that the property was commercial, the Ld. Single Judge negated the challenge to the impugned orders. However, with a view to do complete and substantial justice between the parties, the learned Single Judge directed that after payment of deficient duty at commercial rates as well as registration fee if the appellant applies for sanction of revised building plan for raising commercial building on the plots in question, the Competent Authority Hisar shall consider the request dispassionately by taking an appropriate decision at an early date in accordance with law.

Ld. Counsel for the appellant has not been able to demonstrate as to how the finding with regard to the commercial nature of plots is wrong more so in the light of her willingness to pay at the commercial rates if plan for commercial building was sanctioned.

Consequently, there is no merit in the appeals and the same are dismissed. All pending Civil Miscellaneous applications are also dismissed.

(RAJIV SHARMA) (HARINDER SINGH SIDHU)
JUDGE JUDGE

September 19, 2019

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No