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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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1. **RSA No. 3230 of 2016 (O&M)**
Date of Decision: 30.09.2019

The Dabra Chowk Cooperative House Building Society

..... Appellant

Versus

State of Haryana and others

..... Respondents

2. **RSA No. 3231 of 2016 (O&M)**
Date of Decision: 30.09.2019

The Dabra Chowk Cooperative House Building Society

..... Appellant

Versus

State of Haryana and others

..... Respondents

3. **RSA No. 3232 of 2016 (O&M)**
Date of Decision: 30.09.2019

The Dabra Chowk Cooperative House Building Society

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Ms. Raina Sabharwal Thakur, Advocate
for the appellant.

Mr. Pawan Kumar Jhanda, AAG Haryana.

<u>SUDIP AHLUWALIA J. (ORAL)</u>

1. The Civil Suit filed on behalf of the appellants in which it had challenged the orders passed by the respondent Nos. 2 and 3 on 23.03.2010

and 03.08.2010, respectively and had also sought a declaration that the report dated 05.05.2008 of the Stamp Auditor Hisar Circle was illegal and violative of the Provisions of the Indian Stamp Act, 1899, on account of which the respondents had no right to recover the alleged deficiency in stamp duty was decreed in favour of the appellants by the learned Additional Civil Judge (Sr. Divn.) Hisar vide impugned judgment and decree dated 11.09.2012.

2 However, while so decreeing the suit the learned Addl. Civil Judge (Sr.Divn.), Hisar had also granted liberty to respondent No. 1 (Collector Hisar) to assess the market value of the suit land by holding an enquiry in terms of Rule 4 and sub section 2 of Section 47-A of the Indian Stamp Act, 1899 and to pass a fresh order expeditiously.

3 The judgment and decree of the trial Court were challenged on behalf of the respondents but their appeal was dismissed vide impugned order.

4 From its side the appellant had also challenged the Trial Court's order to the extent liberty had been granted to the Collector Hisar to make a fresh assessment of the market value of the suit land by way of enquiry under the relevant provisions of the Stamp Act. But the appeal preferred by the appellant-plaintiff on this limited ground was dismissed by the learned Additional District Judge, Hisar detailed impugned judgment dated 23.03.2016 was of the view that "*Non holding of enquiry till date (i.e 23.03.2016) is non consequential*."

5 The grievance of the appellant before this Court is to the effect that the direction of the Trial Court which remains unaltered, pertains to the period of 2008, for which an enquiry at this stage cannot be feasible. This

Court is not in agreement with such submission. It is for the concerned Authority/Collector to determine how and on what basis he would arrive at the correct market value which ought to have existed at the relevant year 2008, and recourse to the relevant Rules of the Statute cannot be avoided simply because any particular time has lapsed in between. Of course if the appellant is aggrieved by the correctness of any such enquiry report, it would certainly have its independent remedy by way of appropriate legal action seeking to challenge correctness of the same but there is no justification for holding the relevant direction of the trial Court to be inoperative.

6 Consequently, the appeal is disposed of with a direction upon the Collector, Hisar District to do the needful regarding determining the market value of the suit land at the relevant time in the year 2008 in terms of the direction of the learned trial Court's as expeditiously as possible, and preferably within four months from the date of communication of this order.

(SUDIP AHLUWALIA)
JUDGE

September 30, 2019
rajeev(rvs)

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No