

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-31134-2019
Date of Decision:-25.11.2019.

Santra Devi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present:- Mr. Naresh Kumar Chhokar, Advocate for the petitioner.

Mr. R.K. Doon, AAG, Haryana.

SANJAY KUMAR, J. (Oral)

Challenge in this case is to the order dated 11.07.2019 (Annexure P-7) passed by the Commissioner, Gurgaon Division, Gurgaon Camp at Rewari, District Rewari, Haryana, the second respondent, dismissing her appeal as time-barred. This appeal was preferred by her against the order dated 12.12.2017 (Annexure P-4) passed by the Sub-Divisional Officer (Civil), Rewari, the third respondent, exercising the powers of a Collector under Section 47-A (3) of the Indian Stamp Act, 1899 (hereinafter, 'the Act, 1899'). Thereby, the petitioner was directed to pay deficiency in stamp duty to the tune of Rs.3,52,688/- in relation to her registered sale deed dated 03.07.2013, bearing Document No.2629 of 2013.

Section 47-A (4) of the Act, 1899 provides for an appeal against such an order of the Collector within 30 days from the date of the

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order. Admittedly, in the case on hand, the appeal was preferred by the petitioner 10 days after the prescribed 30 days limit. It is on this ground that the Appellate Authority, the second respondent, dismissed the appeal on the point of limitation.

It may however be noticed that Section 47-A (4) of the Act, 1899 does not prescribe an outer limit beyond which an appeal cannot be preferred. In such circumstances, Section 29 (2) of the Limitation Act, 1963 (hereinafter, 'the Act, 1963') would come into play. This provision states to the effect that where any special or local law prescribes a period of limitation for any appeal, for the purpose of determining such period of limitation the provisions contained in Sections 4 to 24 of the Act, 1963 would apply insofar as and to the extent to which they are not expressly excluded by such special or local law.

As already noted supra, there is no specific exclusion in Section 47-A (4) of the Act, 1899, whereby the bar posed by Section 29 (2) of the Act, 1963 would operate. That being so, it is within the power of the Appellate Authority, the second respondent, to condone the delay in the presentation of an appeal, if sufficient and cogent reasons are made out therefor. (See **Indira Devi V/s. Inspector General of Registration and Others 2005 (1) CTC 733**)

However, it appears that the petitioner did not even choose to file an application seeking condonation of the delay of 10 days on her part in preferring the appeal. As it would be open to her to do so in the light of the observations made hereinabove, the writ petition is disposed of setting aside the order dated 11.07.2019 (Annexure P-7) passed by the Appellate Authority, the second respondent herein. The petitioner is given liberty to

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file an application seeking condonation of the delay of 10 days on her part in preferring an appeal as per Section 5 of the Act, 1963 within one week from the date of receipt of a certified copy of this order. Upon filing of such an application, the Appellate Authority, the second respondent, shall consider the same on its own merits and in the event, sufficient cause is made out for condoning the delay, the second respondent shall condone the same and adjudicate the appeal filed by the petitioner on merits and in accordance with law. The order dated 12.12.2017 passed by the third respondent shall remain in abeyance till the preferring of a condonation of delay application and consideration thereof by the Appellate Authority and in the event the delay is condoned, the consideration of the stay application filed in the appeal. It is made clear that the petitioner has to abide by the time stipulation of preferring a condone delay application within one week from the date of receipt of a certified copy of this order, failing which this order shall stand recalled and the writ petition shall stand dismissed.

No order as to costs.

(SANJAY KUMAR)
JUDGE

November 25, 2019.

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Whether speaking/reasoned:-

Yes/No.

Whether Reportable:-

Yes/No.