

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-6868-2018 (O&M)
Date of Decision: 10.01.2019

Late Sh. Ved Parkash Vijn through
his L.Rs

--Petitioners

Versus

State of Punjab & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Pankaj Jain, Sr. Advocate with
Mr. Sachin Bhardwaj, Advocate for the petitioners.

Mr. Sahil Sharma, D.A.G., Punjab.

TEJINDER SINGH DHINDSA.J (Oral)

Vide order dated 29.2.2016 passed by the Collector, Jalandhar the petitioners were directed to deposit a sum of Rs.22,38,950/- towards deficient stamp duty and registration fee pertaining to sale deed bearing no.15767 dated 01.03.2013 for the premises in question. Such order was passed ostensibly by invoking the powers under Section 47-A of the Indian Stamp Act. The petitioners having preferred an appeal, the Commissioner Jalandhar Division Jalandhar has declined the same in terms of order dated 12.11.2016 and thereby affirming the order of the Collector.

The instant writ petition has been filed assailing the afore-noticed two orders at Annexures P-8 and P-11 respectively.

Having heard counsel for the parties at length, this Court is of the considered view that the validity of the order dated 29.2.2016 (Annexure P-8) passed by the Collector, Jalandhar need not be gone into, at this stage. Such view is being taken for the reason that the facts of the present case make out a case for remand to the Appellate Authority for reconsideration.

The admitted position is that an appeal dated 12.4.2016 (Annexure P-9) had been preferred by the petitioners before the

Commissioner Jalandhar Division, Jalandhar. A number of grounds/submissions had been raised in the appeal. It would not be necessary to delineate the same in the instant order.

The appeal has been dealt with by the Appellate Authority vide impugned order dated 12.11.2016 and the operative part of which reads as follows:-

“4. I have considered the arguments put forth before me by the counsel for the appellants and have also carefully gone through the record. I find no illegality in the impugned order dated 29.02.2016 passed by the Collector, Jalandhar, thereby pointing out a total deficiency of Rs.22,38,950/- on the sale-deed registered at No.15767 dated 01.03.2013 in favour of the appellant, to be payable by the appellants. There is no merit in the arguments of the counsel for the appellants that the appellants were not heard. Admittedly, the appellants had appeared before the Collector, Jalandhar, had furnished their written reply and had also led evidence in view of the grounds of appeal of the appellants consequently, the instant appeal of the appellants has no merits and is dismissed.

*Sd/-
(Harbhupinder Singh Nanda)
Commissioner, Jalandhar Division”*

Suffice it to observe that the order passed by the Appellate Authority dated 12.11.2016 at Annexure P-11 is a cryptic, non-speaking order.

The question as regards reasons to be assigned by the Appellate Authority even while affirming an order passed by the subordinate authority came up for consideration before the Apex Court in ***Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney & others, 2009 (5) SLR, 512*** and it was

observed as under:-

“8. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.

*9. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of **S.N.Mukherjee vs. Union of India** reported in (1990) 4 SCC 594, is that people must have confidence in the judicial or quasi-judicial authorities.*

*10. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation. No doubt, in **S.N. Mukherjee's case (supra)**, it has been observed (vide para 36) that:-*

"..The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge."

11. The above observation, in our opinion, really means that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it cannot be understood to mean that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one line orders stating that they agree with the view of the lower authority."

Such view also stands reiterated by a Division Bench of this Court in ***Naresh Kumar and another Vs. State of Haryana and others***, **2004(4) R.C.R (Civil), 217.**

Perusal of the impugned order dated 21.11.2016 (Annexure P-11) passed by the Appellate Authority would clearly reveal that the

submissions/grounds raised by the petitioner in the appeal have not even been adverted to much less dealt with. The impugned order passed by the Appellate Authority, as such, cannot sustain.

For the reasons recorded above, the present writ petition is partly allowed and the order dated 12.11.2016 (Annexure P-11), is set aside. The matter is remanded back for consideration afresh at the hands of the Appellate Authority. Liberty is granted to the petitioners to file written submissions to supplement the appeal dated 12.4.2016 (Annexure P-9) within a period of four weeks from today. Let the final order upon reconsideration be passed within a period of two months thereafter. It would be appreciated if an opportunity of personal hearing is also granted to the petitioners.

No coercive steps in pursuance to the order dated 29.2.2016 (Annexure P-8) passed by the Collector, Jalandhar would be taken against the petitioners in the meanwhile and the same would be subject to the outcome of the final order to be passed by the Appellate Authority and as is being directed.

It is clarified that this Court has not examined the case on merits.

Writ petition is disposed of in the aforesaid terms.

Pending applications, if any, shall also stand disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

10.01.2019

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