

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

104

CWP-9906-2020

Date of decision: 16.07.2020

Amresh Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rakesh Gupta, Advocate
for the petitioner.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed present petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of the impugned order dated 14.06.2018 passed by respondent No.2-Sub Divisional Officer (Civil)-cum-Collector, Kaithal and notice dated 30.09.2019 sent by respondent No.4-Tehsildar, Kaithal requiring the petitioner to deposit a sum of Rs.2,76,000/-.

Briefly stated the petition has been filed on the averments that in the year 2006, the petitioner was working with M/s Sugam Products Pvt. Ltd. The above-said company purchased land vide registered sale deed No.1957/1 dated 14.07.2006 through the petitioner as its authorized representative. The petitioner left said employment and was no longer working with the above-said company. The petitioner received notice dated 01.07.2020 from respondent No.4. On enquiries, the petitioner came to know that on reference by the Sub Registrar, Kaithal, respondent No.2 passed impugned order dated 14.06.2018 under Section 47-A of the Stamp Act, 1899 directing the petitioner to deposit deficient stamp duty of Rs.2,76,000/- within one month. Thereafter, respondent No.3 issued notice dated 30.09.2019

calling upon the petitioner to pay the amount while mentioning that in case of failure to do so, the amount may be recovered as arrears of land revenue. Respondent No.4 vide order dated 01.07.2020 ordered his presence in his office for deposit of the amount. The petitioner has further pleaded that no notice of the reference was served on the petitioner and the petitioner did not engage any lawyer to represent him but presence of some lawyer was marked in the proceeding. Notice of the reference ought to have been issued to the company M/s Sugam Products Pvt. Ltd. Such reference by the Sub-Registrar, Kaithal could be made within three years and reference made by the Sub-Registrar, Kaithal and impugned order passed by respondent No.2 and impugned notices issued after a period of more than 10 years are illegal and liable to be set aside.

Learned Counsel for the petitioner has, while reiterating above referred facts, urged for grant of interim relief staying the operation of the impugned order and notices during pendency of the petition.

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr. Pawan Longia, DAG, Haryana has appeared and accepted notice on behalf of the respondents.

Learned State Counsel has submitted that the petitioner has alternative remedy of filing appeal before the Commissioner, Karnal Division, Karnal and the present petition is not maintainable.

At this stage, learned Counsel for the petitioner has submitted that the petitioner has filed the present petition since Commissioner, Karnal Division, Karnal is not holding the Court but learned State Counsel has vehemently controverted the submission asserting that Commissioner, Karnal Division, Karnal is holding Court and the appeal, if any, filed can be disposed of by him.

The petitioner is aggrieved from impugned order dated 14.06.2018 passed by respondent No.2 and impugned notices dated 30.09.2019 and 01.07.2020 issued by respondent No.4. Admittedly the

land was purchased by M/s Sugam Products Pvt. Ltd. vide sale deed No.1957/1 dated 14.07.2006 through the petitioner as its authorized signatory. Notice was, therefore, issued properly to the petitioner. Perusal of the impugned order shows that the petitioner appeared before respondent No.2 with his counsel and did not take any objection that he was no longer authorised signatory of the above-said company.

As per the impugned order and notices, the amount is recoverable as arrears of land revenue in case of default in payment. Under Section 78 of the Punjab Land Revenue Act, 1887 remedy of a person denying liability for payment of any amount recoverable as arrears of land revenue is to pay the same under protest made in writing at the time of payment and signed by him or his agent and thereafter file a suit in a Civil Court for the recovery of the amount so paid.

Under sub-Section 4 of Section 47-A of the Indian Stamp Act, 1899 alternative remedy of filing of appeal against the impugned order dated 14.06.2018 passed by respondent No.2 is available to the petitioner. This fact was also mentioned by respondent No.3 in notice dated 30.09.2019 sent by him to the petitioner.

It follows from the above discussion that equally efficacious remedies are available to the petitioner. Therefore, the present writ petition is not maintainable.

At this stage, learned Counsel for the petitioner submits that the petitioner will deposit the amount under protest and file an appeal against the impugned order which may be ordered to be disposed of expeditiously with direction that in the eventuality of the appeal being allowed, the amount deposited may be refunded to the petitioner.

Learned State Counsel has no objection to the above course of action.

In view of the facts and circumstances of the case, provisions of Sub Section 4 of Section 47-A of the Indian Stamp Act, 1899 and Section 78 of the Punjab Land Revenue Act, 1887 the petition is disposed of with direction to the petitioner to deposit amount of

Rs.2,76,000/- in the Government Treasury and file an appeal before the Commissioner, Karnal Division, Karnal within one month from the date of this order and in case of filing of any such appeal, the Commissioner, Karnal Division, Karnal shall dispose of the same expeditiously preferably within the period of three months from the date of filing of the appeal. Needless to say that in the eventuality of the impugned order being set aside, the petitioner will be entitled to refund of the amount deposited by him.

16.07.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No