

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 9221 of 2021 (O&M)
Date of decision : April 29, 2021

M/s B.R. Ware Housing Pvt. Ltd.

....Petitioner

versus

State of Haryana and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

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

Fateh Deep Singh, J. (Oral)

The matter has been taken up through Video-conferencing on account of outbreak of pandemic COVID-19.

The petitioner M/s B.R. Ware Housing Pvt Ltd. has invoked the jurisdiction of this Court through the instant civil writ petition under Article 226 of the Constitution of India praying for issuance of a writ in the nature of certiorari seeking setting aside of orders dated 24.2.2021, Annexure P/5 passed by respondent no. 2-the Commissioner, Gurugram Division, Gurugram whereby the appeal of the petitioner bearing No. EA-074/2018-2019, dated 26.11.2018 titled as M/s B.R. Warehousing Pvt. Ltd. vs State of Haryana and Anr.,

Annexure P/4 against the orders dated 14.9.2018, Annexure P/3 passed by the then Collector, Pataudi, District Gurugram was dismissed by respondent no. 2 terming it to be illegal, unjust, improper and contrary to the facts and circumstances.

Upon hearing Sh. Tanmoy Gupta, counsel for the petitioner and perusing the record.

The petitioner company was granted permission for Change of Land Use (CLU) by the Town & Country Planning Department, Haryana on 20.1.2014 vide letter Annexure P/2. Meanwhile, the sale deed was got executed of this land measuring approximately 19 Kanals 7 Marlas situated in revenue estate of village Daboda, Tehsil Farrukhnagar, District Gurugram for a sum of Rs One Crore in favour of the petitioner. It is pertaining to this transaction, reference No. 474/RC dated 9.2.2018 was made to respondent no. 3- Collector, Pataudi over the deficiency of the stamp duty and for initiating action under Section 47-A(3) of the Indian Stamp Act, 1899 (in short, the Act) and as a consequence of the same, these two orders by the Collector and the Commissioner were passed. On perusal of the records, the competent authority after due notice to the parties and affording them of sufficient opportunity had passed the impugned orders and had also perused report of the Halqa Patwari holding that there has been suppression of the true value of the property subject matter of transaction as the purchaser has not paid

the stamp duty to the Government. The primary reason was that the land meant for Warehousing will fall within the domain of commercial land and not agricultural land as has been sought to be shown and only stamp duty as per agricultural land was paid to the State. Section 47-A of the Act and the incorporated amendment for the State of Haryana provides that where the Registering Officer in due course of registering the instrument/transferring of the property comes to know and has sufficient reason to believe that the value of property or the consideration has not been truly set forth in the instrument, after registration, refer the same to the Collector for determination of the value or consideration, as the case may be and for proper duty payable thereon and sub-section (2) of Section 47-A of the Act provides that the Collector shall after giving the parties a reasonable opportunity of being heard and after holding an enquiry prescribed under the Rules, determine the value or consideration and the duty payable as well as deficiency in the amount of duty. Further-more sub-section 3 of Section 47-A of the Act, the Collector has been empowered to act within a period of two years from the date of the commencement of this Amendment in respect of instrument registered on or after the first day of November, 1966 and under sub-section 4 of Section 47-A of the Act, a provision by way of appeal within thirty days has been provided to file an appeal before the Commissioner.

Learned counsel for the petitioner could not convince this Court how the land in question fell within the domain of agricultural land and how there has been miscarriage of justice in not following procedure prescribed under the Act. The land as per jamabandi comprises of Godown and needs to be by way of commercial angle and not by agricultural means nor it is shown to be subservient to agriculture purpose. The Commissioner has rightly appreciated this fact and correctly upheld the orders of the Collector and has done substantial justice and looked after the financial interest of the State. Apparently there is no sufficient grounds for this Court to exercise its extra ordinary jurisdiction and that the petition being hopelessly without merit stands dismissed.

April 29, 2021
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No