

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

-.-

CWP No. 15524 of 2021

Date of decision: 13.08.2021

Vinod Kumar Ghai

.....*Petitioner*

Versus

The Commissioner and others

.....*Respondents*

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

-.-

In virtual Court

Present: Mr. Ashish Aggarwal, Senior Advocate with
Mr. Vaibhav Mittal and Mr. Virender Singh, Advocates
for the petitioner

-.-

Rajbir Sehrawat, J. (Oral)

The present petition has been filed by the petitioner under Articles 226 and 227 of the Constitution of India seeking issuance of writs in the nature of certiorari, mandamus, prohibition etc. for quashing of impugned order dated 10.03.2021 (Annexure P-12) passed by the Commissioner, Jalandhar Division, Jalandhar; order dated 29.10.2018 (Annexure P-9) passed by the Collector; Notice dated 14.06.2016 (Annexure P-5) and Reference Order dated 23.10.2015 (Annexure P-4) passed by the Sub Registrar, being illegal, ultra vires, void and without jurisdiction with further prayer to stay the operation and implementation of Annexures P-4, P-5, P-9 and P-12.

It is submitted by counsel for the petitioner that as per the law

laid down by this Court in ***Chamkaur Singh and another vs. State of***

Punjab and another, 1991 PLJ 249 and *Lalita Devi vs. The Commissioner, Gurgaon Division, Gurgaon, 2001 (1) PLJ 568*, the Collector is required to grant an evidence based opportunity of hearing before arriving at a conclusion qua deficiency of the stamp duty paid at the time of registration of the sale deed. However, in the present case, the matter has been taken up only on the basis of an alleged audit report and order has been passed in a mechanical manner. Counsel for the petitioner has further submitted that no action for recovery of any deficiency in stamp duty could have been initiated against the petitioner under the statutory provisions beyond a period of three years from the date of registration of the sale deed. However, in the present case, a demand has been raised after a gap of three and a half years. Hence, the action of the respondents is time barred as well.

Counsel for the petitioner has also submitted that since the matter has now been remanded by the Commissioner, Jalandhar Division, Jalandhar, for reconsideration, therefore, the petitioner would be satisfied, if the Collector is directed to grant an effective opportunity of hearing to the petitioner on all the issues involved in the matter; including the limitation and also as per the judgments of this Court rendered in *Chamkaur Singh's* and *Lalita Devi's* case (supra).

Notice of motion.

Ms Anju Arora, Additional Advocate General, Punjab accepts notice on behalf of the respondents.

Counsel for the respondents has also submitted that since the matter has been remanded to the Collector, therefore, a proper forum for the

petitioner now is to appear before the Collector and raise his submissions there, in accordance with law.

In view of the above, the present petition is disposed of with a liberty to the petitioner to raise all the pleas; including that of limitation; before the Collector. The petitioner shall also be entitled to submit his written submissions before the Collector and also to raise the plea of evidence based hearing as per the judgments rendered by this Court in *Chamkaur Singh's* and *Lalita Devi's* case (supra)

(Rajbir Sehrawat)
Judge

13.08.2021
Mohan Bimbura

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