

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

-.-

CWP No. 19651 of 2021
Date of decision: 29.09.2021

Meena Bansal

.....Petitioner

Versus

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

-.-

In virtual Court

Present: Mr. Vikas Mehsempuri, Advocate
for the petitioner

-.-

Rajbir Sehrawat, J. (Oral)

The instant writ petition has been preferred by the petitioner under Articles 226/227 of the Constitution of India seeking issuance of an appropriate writ, order or direction especially in the nature of certiorari quashing impugned order dated 16.07.2015 (Annexure P4) passed by respondent No. 3 - District Collector, Barnala and order dated 08.02.2021 (Annexure P6) passed by respondent No. 2 - Commissioner, Patiala Division Patiala, vide which, ex parte order has been passed by respondent No. 3 for deficiency of stamp duty and registration fee under the Indian Stamp Act, 1899 has wrongly been assessed against the petitioner.

Notice of motion.

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

It is submitted by counsel for the petitioner that the sale deed

in question was registered on 08.04.2013. The Collector is stated to have passed the order finding out the deficiency in the stamp duty vide order dated 16.07.2015. However, at the time of passing of the said order, the petitioner was never served. Although *mustari munadi* is alleged to have been conducted but the same was not done at the place where the petitioner is residing, even as per the address mentioned in the sale deed. Moreover, no separate notice is even alleged to have been served upon the petitioner. Hence, the order was passed by the Collector, Barnala without affording an opportunity of hearing to the petitioner. The petitioner came to know that she had been proceeded against ex-parte only when she had gone to the office of the Sub Registrar in connection with sale of some property. Thereafter, the appeal was filed by the petitioner. The issues qua not-granting opportunity of hearing, as well as, on merits were duly raised by the petitioner. However, the appellate authority has wrongly rejected the appeal filed by the petitioner. The plea raised by the petitioner qua not granting opportunity of hearing has not been dealt with by the appellate authority. Rather, much emphasis has been laid on the fact that the appeal filed by the petitioner is time barred.

On the other hand, counsel for the State has submitted that the order has rightly been passed regarding deficiency of stamp duty as pointed out by the Audit party in this regard. The *mustari munadi* was conducted in the area, where the property is situated. Hence, no fault could be found with the order passed by the authorities.

After hearing the counsel for the parties and having perused the records, this Court finds substance in the arguments raised by the

petitioner. It is obvious that the respondents do not even claim to have sent notice at the address where the petitioner is residing (as mentioned in the sale deed). Even the *mustari munadi* is stated to have been conducted at the place where the property in question is situated; and not at the place where the petitioner is residing. This is not even the claim of the respondents that any publication in the newspaper was made by them. Hence, it is much clear that the petitioner remained unheard in the matter. The aforesaid fact is duly supported by the circumstances that despite having passed order 16.07.2015, even the respondents had not taken any step qua recovery of assessed shortfall of the stamp duty. Therefore, it would not be unjustified to remand the matter to the Collector, Barnala for re-assessing the deficiency in the stamp duty, if any, after following the due procedure; affording an opportunity of hearing to the petitioner and by passing a detailed speaking order; while dealing with all the aspects raised by the petitioner before him.

In view of the above, the present petition is allowed. The impugned orders passed by respondent No. 3 – District Collector, Barnala and respondent No. 2 - Commissioner, Patiala Division, Patiala are set aside and the matter is remanded to the Collector, Barnala for deciding the case afresh, in the terms mentioned above. The petitioner is directed to appear before the Collector on or before 06.10.2021 for further proceedings.

(Rajbir Sehrawat)
Judge

29.09.2021
Mohan Bimbura

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