IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

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CWP No. 23137 of 2021
Decided on: 16.11.2021

M/s Singla Builders and Promoters Limited ....**Petitioner**

Versus

State of Punjab and others ....**Respondents**

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Mrigank Sharma, Advocate, for the petitioner

<u>Rajbir Sehrawat, J.(Oral)</u>

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of certiorari quashing the orders dated 11.2.2020 (Annexure P-1), passed by respondent No.2 vide which the appeal under sub Section (4) of Section 47A of the Indian Stamp Act, as applicable to the State of Punjab, preferred by the petitioner has been dismissed; and the ex-parte order dated 29.12.2015 (Annexure P-3), passed by respondent No.3 in case No. 131 of Section 47A of the Act, directing the petitioner to re-affix and make up the deficiency of the stamp duty for the sale deeds of the year 2012-2013, to the tune of Rs.5,42,200/-and for recovery of the same.

It is submitted by counsel for the petitioner that no reference was made by the Assistant Collector at the time when the sale deed in question was being registered. However, subsequently, reference is stated to have been made to the Collector under Section 47A of the Act, as applicable to the State of Punjab; qua the deficiency in stamp duty. The Collector has passed the order assessing the deficiency in stamp duty in absence of the petitioner. Hence, the order was passed by the Collector without even affording the statutory opportunity of hearing. The petitioner preferred appeal before the Commissioner. However, even that appeal was rejected by the Commissioner without there being any basis and without there being any material before the Commissioner to show that the value of the land, which is the subject matter of the sale deed, was more than the value depicted in the sale deed. Hence, the order deserves to be set aside.

Notice of motion.

Mr. Vikas Mohan Gupta, Addl. AG, Punjab, accepts notice on behalf of the respondents.

It is submitted by counsel for the respondents that the due notice was given to the petitioner. However, since the petitioner had changed its address, therefore, the notice could not be served. Thereafter, even munadi was conducted but the petitioner did not come present to contest the case. Hence, the duty was rightly assessed by the Collector and the appeal has rightly been dismissed by the Appellate Authority.

As answer to this, counsel for the petitioner has further submitted that although the petitioner had changed the address, however, without exhausting the prescribed means of service, the respondent straightway conducted munadi, which is a local kind of proclamation. No publication was made in the newspapers so as to give vide circulation to the notice. Still further, it is submitted that even in absence of the petitioner, the Collector could not have arbitrarily assessed the stamp duty. The Collector was supposed to have some kind of material to show that the value of the land was shown less by the petitioner. Counsel for the petitioner has relied upon the judgment of this Court in **CWP No. 5461 of 2008** titled as **Iqbal Singh and others v. State of Haryana and others**, decided on 30.9.2010; and also upon the judgment rendered in **'Chamkaur Singh and another v. The State of Punjab and another; AIR 1991 P & H 26'**.

Having heard counsel for the parties, this Court finds substance in the arguments of counsel for the petitioner. It is not even in dispute that the petitioner remained unheard in the matter. Although the respondents may be right in submitting that the proclamation was made to get the presence of the petitioner in the proceedings sought to be initiated by the Collector, however, the fact remains that except the alleged audit report, no material is shown to be produced before the Collector upon which he could have based his assessment. On the contrary, had the petitioner been granted opportunity of hearing, the petitioner would have made an attempt to lead the evidence to show that the deed in question was appropriately valued and stamped. The only material stated to be available with the Collector was the report of the Audit authority, which has gone totally unquestioned in absence of the petitioner. Hence, it is appropriate if the matter is reconsidered by the Collector after granting an opportunity to the petitioner to raise objection against the conclusions of the audit report, and to lead the evidence before the Collector, as deemed appropriate by the petitioner.

Accordingly, the orders impugned in the present petition are set aside. Matter is remanded to the Collector to consider the case afresh after hearing the petitioner. The petitioner is directed to appear before the Collector on 2.12.2021.

With the above direction, the present petition is disposed of.

(RAJBIR SEHRAWAT)
JUDGE

16.11.2021

Ashwani

Speaking : Yes/No
Reportable : Yes/No