

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

CR-5939-2018 (O&M)

Date of decision: 28.07.2022

Madhvi Behal

...Petitioner

Versus

Atul Mehra and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rahul Bhargava, Advocate for the petitioner
 Mr. Rohit Verma, Advocate for respondent no.1

ANIL KSHETARPAL, J (Oral)

The trial court has directed the plaintiff to make good the deficient stamp duty of Rs.9,20,700/- alongwith the penalty to the extent of 10 times of the stamp duty payable.

In CR-1931-2017 (**Narinder Kapoor vs. Inderjit (since deceased) through his legal heir**) and connected case decided on 12.02.2020, this Court, after examining the amended provisions of the Indian Stamp Act, 1899, as applicable to the State of Punjab held that the stamp duty is payable only on the amount of the earnest money if the delivery of possession is recited in the agreement to sell.

In **Trustees of H.C.Dhanda Trust vs. State of Madhya Pradesh and others' 2020 AIR (SC) 4349**, the Supreme Court while interpreting Section 25 read with Section 40 of the Stamp Act, 1899, has held that imposition of penalty to the extent of 10 times of deficiency in the stamp duty is not mandatory. In the present case, there is no material evidence to prove that the petitioner has not tried to evade the payment of the proper stamp duty or played any fraud in order to deprive

the revenue of the amount. As per learned counsel the stamp duty payable on the earnest money of Rs.10,00,000/- comes to more than Rs.80,000/-. Hence, the ends of justice would be met if the plaintiff is made liable to pay penalty equivalent to the amount of deficient stamp duty.

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

28.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE