116 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2460-2019 (O&M)
Date of decision: 27.10.2022

Jasminder Kaur and another

....Petitioners

Versus

Jagjit Kaur

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Liaqat Ali, Advocate for the petitioners

Mr. Saauman Singh Gill, Advocate for
Mr. Manbir Singh Batth, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

The dispute is with regard to the sufficiency of the stamps affixed on the agreement to sell dated 27.06.2014. The document/instrument has already been admitted in evidence as Ex.P-2. A subsequent application, filed by the defendant, to impound the document, has been dismissed on the ground that there is no State specific amendment with regard to the payment of stamp duty evidencing delivery of possession. Such observations of the trial court are incorrect. 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 amendment carried out by the State of Punjab in the Stamp Act, 1899, has found that the stamp duty, at the prescribed rate, is payable on the amount paid at the time of agreement to sell, which evidences delivery of possession. However, Section 36 of the Stamp Act, 1899 debars anyone to question the admission of the document, once it has been admitted in evidence.

Section 36 reads as under:-

> "***36. Admission of instrument where not to be questioned***.—*Where an instrument has been admitted in evidence, such admission shall not, except as provided in Section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.*

From the reading of the order, it is evident that the agreement to sell has already been exhibited in evidence as Ex.P-2. In such circumstances, in view of the bar contained in Section 36 of the Stamp Act, 1899, the objection to the admission of the document on the ground of insufficiency of stamp duty, is not maintainable. Hence, no ground to interfere is made out.

Dismissed.

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

27.10.2022 **(ANIL KSHETARPAL)**
rekha **JUDGE**
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No