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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-27723-2013
Date of decision: 08.08.2022

RANJIT KAUR

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R. K. Singla, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab.

Ms. Shalhi Mahajan, Advocate for
Mr. Kamal Satija, Advocate
for respondent No.7.

Mr. Kuljit Singh, Advocate for
Mr. Peeush Gagneja, Advocate
for respondent Nos.8 and 9.

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JAISHREE THAKUR, J.

This is a petition that has been filed seeking issuance of a writ in the nature of certiorari for quashing order dated 12.09.2013 (Annexure P-19) passed by respondent No.2, who has upheld the order dated 06.01.2010 (Annexure P-15) passed by respondent No.3, vide which, the petitioner herein has been directed to pay deficit court fee along with registration charges on the total sale consideration of Rs.14,51,700/- on sale deed dated 28.02.2008.

In brief, the facts are that on 23.01.2008, petitioner herein entered into an agreement to sell his house for a total sale consideration of

Rs.7,25,000/- with respondent No.7. The sale deed was registered on 28.02.2008 and possession was delivered to respondent No.7, who became owner in possession of the house. There was a family dispute, which resulted in various cases being filed against the petitioner and respondent No.7. One of the complaints made was that the petitioner herein had evaded the payment of stamp duty. Based on the complaints, notices were issued to the petitioner, who filed a detailed reply stating that she was not liable to pay the said stamp duty. The Collector, Ferozepur, while relying upon the report of the Sub-Divisional Magistrate, Abohar, who inspected the spot, came to the conclusion vide order dated 06.01.2010, that deficiency of court fee on sale consideration of Rs.14,51,700/- on sale deed dated 28.02.2008, ought to be paid. This order was challenged before the Commissioner, Ferozepur Division, Ferozepur, who affirmed the said order by order dated 12.09.2013. Aggrieved against the impugned orders, the instant writ petition has been filed.

Learned counsel for the petitioner herein would contend that petitioner Ranjit Kaur is the vendor, as would be evident from agreement to sell, wherein, it was clearly specified that the entire expenditure shall be borne by the vendee namely Vinod Kumar as well as condition-8 of the sale deed, wherein, it is specified that expenditure on the sale deed has been borne by vendee.

Learned State counsel, on the other hand, would support the impugned orders. Learned counsel for the private respondents pray for the dismissal of the writ petition.

I have heard learned counsel for the parties and have perused the pleadings of the case.

Section 29(f) of the Indian Stamp Act, 1899, clearly specifies that in the absence of an agreement to the contrary, the expense of providing the proper stamp in the case of the certificate to sale shall be borne by the purchaser of the property to which such certificate relates.

In terms of the said statutory provisions of the Indian Stamp Act, 1899 read in consonance with the agreement to sell, wherein, it is clearly specified that the stamp duty would be payable by the vendee, any demand from the petitioner-vendor is unjustified.

Needless to say, the petitioner herein is a vendor. The argument has been raised that there is a condition in the sale deed that in case, any defect is found in the title of the vendor about this property, then the same is liable to be recovered from his other property as well as condition-12, which reads to the effect that in case any fact is found to be false later on, then vendor shall be held responsible for the same.

Learned State counsel would submit that the sale deed has been registered against the property described to be situated in street No.13, Nai Abadi, Abohar and total covered area is 1750 square feet, whereas, the vendor-petitioner has wrongly mentioned that the land in dispute falls in street No.17, Nai Abadi, Abohar and is covered in area of 1000 square feet and, therefore, the Collector's rate of the area of street No.13, Nai Abadi, Abohar was Rs.30,000/- per marla, whereas the rate of the covered area would be Rs.500 per square feet and, therefore, less stamp duty has been paid.

This argument would be devoid of any merit as a perusal of Annexures P-7 and P-8 dated 24.03.2008 and 06.08.2008 respectively, would clearly reflect that the house of the petitioner is situated in street No.17, Nai

Abadi, Abohar and not in street No.13, Nai Abadi, Abohar. Even if the argument is to be accepted that the property in question falls in street No.13, Nai Abadi, Abohar and not in street No.17, Nai Abadi, Abohar, the vendee has been put in possession of the said house and has accepted the title of the same. As on date, no objection has been raised by the vendee himself that he has been given a defective title. In such a situation, it is still the vendee who would be liable to pay any deficit stamp duty.

In view of the finding rendered above, the instant writ petition is allowed and the impugned orders dated 06.01.2010 (Annexure P-15) passed by the Additional Deputy Commissioner-cum-Collector, Ferozepur and dated 12.09.2013 (Annexure P-19) passed by the Commissioner, Ferozepur Division, Ferozepur are quashed.

(JAISHREE THAKUR)
JUDGE

08.08.2022
Chetan Thakur

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*