

203

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

**CWP-26678-2015 (O&M)
Date of decision: 09.08.2022**

USHA GUPTA

...Petitioner

VERSUS

COLLECTOR OF STAMPS GURGAON HARYANA & ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Gaurav Chopra, Senior Advocate with
Ms. Meghna Garg, Advocate,
Ms. Seerat Saldi, Advocate and
Ms. Ekakshra Mahajan, Advocate
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction, especially in the nature of certiorari for quashing order dated 01.09.2015 (Annexure P-1) and further communication dated 29.05.2015 (Annexure P-2).

In brief, the facts are that five agreements were executed between the parties, which are available on record as Annexures P-4 to P-8. The total sale consideration of the abovesaid five agreements amounted to Rs.15,98,69,375/-. Since the vendor did not come forward to execute the

sale deeds, the matter was referred to the arbitration and the arbitrator so appointed directed the execution of the sale deeds. While deciding the arbitration, the arbitrator by his award also directed that an appropriate reference be made to the Collector, Gurgaon under Section 31 of the Indian Stamp Act, 1899, for adjudication on the correct stamp duty to be paid. The vendor was also directed to execute the sale deeds by an interim award dated 26.03.2015.

In view of the opinion sought from the Collector by virtue of Section 31 of the Indian Stamp Act, 1899, the Collector, Gurgaon assessed the stamp duty on the five agreements as Rs.79,93,225/-. But at the same time, he also imposed penalty 10 times the stamp duty payable by an order dated 01.09.2015.

Learned Senior Advocate for the petitioner herein would submit that in terms of the orders of the Collector, Gurgaon the agreements stand stamped and the only issue that would survive is whether the Collector by virtue of his order is competent to impose penalty. It is submitted that the Collector does not have the power or jurisdiction to impose any penalty under the said Section, as only an opinion is sought for.

Learned State counsel, who was put on notice on the said argument, has received a written communication from Mr. Nishant Kumar Yadav, District Collector, Gurgaon, wherein he has categorically admitted that the Collector would have no jurisdiction to impose penalty. The said communication is taken on record.

In view of the abovesaid instructions imparted to the learned State counsel by respondent No.1, this Court finds that the instant writ

petition deserves to be allowed and the order of the Collector, Gurgaon dated 01.09.2015 (Annexure P-1) to the extent of imposing 10 times penalty of stamp duty is liable to be set aside. Rest of the order of the Collector assessing the stamp duty as payable on five agreements, would remain intact.

Ordered accordingly.

The miscellaneous application CM-13448-CWP-2016 has rendered infructuous with the final disposal of the matter and is disposed of accordingly.

09.08.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*