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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20258-2021
Decided on: 01.08.2022

SHILPA GARG AND OTHERS

Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. V. K. Pandey, Advocate
for the petitioners.

Mr. Tapan Kumar, DAG, Haryana.

JAISHREE THAKUR J.

1. The instant petition has been filed seeking to challenge the order dated 17.01.2018 (Annexure P-4) passed by the Collector, Ferozepur Jhirka, District Nuh whereby, the petitioners have been directed to pay an additional amount of Rs.2,97,860/- along with interest @12% from the date of registration of the sale deed till the deposit of the amount towards deficient stamp duty and registration fee pertaining to sale deed registered on 08.09.2011 and the order dated 15.07.2021 (Annexure P-6) passed by the Commissioner, Faridabad Division, Faridabad, affirming the order of the Collector.

2. In brief, the facts are that the petitioners purchased land measuring 1 kanal 4 marlas, for a total consideration of Rs.15,00,000/-, situated in the area of Ferozepur Jhirka. The sale deed was registered by the Sub Registrar, Ferozepur Jhirka and at that time, the sale deed was not impounded on account of inadequate stamp duty. The sale deed was returned to the petitioners after registration. The office of the Deputy Commissioner, Nuh sent a letter No.487/RA dated 12.06.2014 to

Sub-Registrar, Ferozepur Jhirka pointing out that there was a loss of Rs.2,97,860/- towards deficiency of stamp duty and registration fee on the sale deed in question. On the basis of the inquiry, the Sub-Registrar, Ferozepur Jhirka made a reference vide letter No.47/RC dated 18.07.2014 to the Collector intimating that an amount of Rs.2,97,860/- was deficient towards stamp duty in respect of the sale deed in question. Thereafter, the Collector issued notice under Section 47-A of the Indian Stamp Act on 24.12.2014 against the petitioners to make good the deficient stamp duty, resulting in the impugned orders.

3. Learned counsel appearing on behalf of the petitioners herein would contend that the impugned orders are unsustainable, as the Sub-Registrar, Ferozepur Jhirka while registering the instrument did not impound the sale deed nor was any reference made to the Collector at his own instance at that time. The sale deed was handed over to the petitioners after registration of the same. It is thereafter, that the proceedings were initiated by the Collector under Section 47-A(3) of the Indian Stamp Act, 1899 asking for deficient stamp duty beyond the stipulated period of limitation.

4. Per contra, learned counsel appearing on behalf of the respondents-State submitted that on the basis of inquiry report, it had been found that there was deficient stamp duty affixed on the sale deed that was executed on 08.09.2011 and pursuant to that, notice was issued to the petitioners herein to pay the additional amount of Rs.2,97,860/- towards deficient stamp duty and registration charges.

5. I have heard learned counsel for the parties and have perused the pleadings of the case. The facts are not in dispute. The sale deed came to be registered on 08.09.2011 by the Sub-Registrar but at that point of time, he did not impound the sale deed nor did he send a reference to the Collector as envisaged under Section 47-A (1) of the Indian Stamp Act, as applicable to the State of Haryana. Section 47-A of the

Indian Stamp Act is reproduced as under: -

> *"47-A. Instruments under-valued how to be dealt with. - (1) If the Registering Officer appointed under the Registration Act, 1908, while registering any instrument transferring any property has reason to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon.*
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> *(2) On receipt of reference under Sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, determine the value or consideration and the duty as aforesaid, and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty.*
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> *(3) The Collector may suo motu, or on receipt of reference from the Inspector-General of Registration or the Registrar of a district in whose jurisdiction the property or any portion thereof which is the subject matter of the instrument is situated, appointed under the Registration Act, 1908, shall, within three years from the date of registration of any instrument, not already referred to him under Sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of its value or consideration, as the case may be, and the duty payable thereon and if after such examination, he has reasons to believe that the value or consideration has not been truly set forth in the instrument, he may determine the value or consideration and the duty as aforesaid in accordance with the procedure provided for in Sub-section (2) and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty:*
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> *Provided that the Collector shall, within a period of two years from the date of the commencement of the Indian Stamp (Haryana Amendment) Act, 1973, also be competent to act as aforesaid in respect of the instruments registered on or after the first day of November, 1966 and before the first day of October, 1970.*

> *(4) Any person aggrieved by an order of the Collector under Sub-section (2) or Sub-section (3) may, within thirty days from the date of the order, prefer an appeal before the Commissioner of the Division and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules made under this Act.*

6. A plain reading of sub-section (3) of Section 47-A of the Indian Stamp Act, 1899 clearly shows that the period prescribed for initiation of proceedings under the said provision is three years. No proceedings can be initiated after the expiry of three years. Such being the situation, the proceedings initiated by the respondents on 24.12.2014 were unjustified. Similar view has been taken by the Division Benches of this Court in ***Raghbir vs. State of Haryana, 2003 (4) RCR Civil 861*** and ***Vikas vs. State of Haryana and Others, (2008) 2 RCR (Civil) 526.*** The law so settled is followed in ***Lalit Mohan Chadha vs. State of Punjab and Others, CWP No.527 of 2010, decided on 15.02.2012*** and ***Jyoti Singla and Others vs. State of Punjab and Others, CWP No.21097 of 2019, decided on 24.03.2022***, by this Court.

7. In view of the finding rendered above, the instant writ petition is allowed and the impugned orders dated 17.01.2018 (Annexure P-4) passed by the Collector, Ferozepur Jhirka, District Nuh and dated 15.07.2021 (Annexure P-6) passed by the Commissioner, Faridabad Division, Faridabad are quashed.

(JAISHREE THAKUR)
JUDGE

01.08.2022
Chetan Thakur

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No