
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-26855-2019
Date of decision : 12.12.2022.

Kunal Garg

... Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Rohit Kumar, Advocate for the petitioner.

Mr. Arun William, AAG, Punjab.

***

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the order dated 03.03.2016 (Annexure P-1) whereby the Collector-respondent No.2 had asked the petitioner to pay 3% additional stamp duty in terms of Section 3-C of the Indian Stamp Act, 1899, on registration of the transfer deed dated 17.08.2010 and the order dated 23.05.2018 (Annexure P-3) whereby the appeal filed thereagainst has been dismissed by the Commissioner-respondent No.3.

Learned counsel for the petitioner submits that the transfer deed, which had been executed on 17.08.2010 by the father of the petitioner in the name of the petitioner for the agricultural land, was exempted from stamp duty in terms of the notification issued by the Government of Punjab, Department of Revenue (Stamp and Registration), on 21.12.2001 stating that the stamp duty upon transfer of agricultural land, rural residential property to his Class-I heirs, during his lifetime, would be exempt. The land in question is agricultural and therefore, the additional stamp duty could not have been levied on its transfer. In support of his submissions, he has relied upon the judgment of a

----

Coordinate Bench of this Court in the case of **Dyal Singh and others versus The State of Punjab and others,** bearing CWP No.25496 of 2012, decided on 28.04.2016.

Learned State counsel, while referring to the reply filed by the respondents, submits that 3% additional stamp duty had been rightly ordered on account of social security fund and the impugned order had been passed within the period of limitation.

Heard.

The transfer deed No.4766 dated 17.08.2010 is stated to have been executed by the father of the petitioner in favour of the petitioner for the land measuring 16 kanal 6-1/9 marlas land described as Barani/Nehri agricultural, situated at Patti Gill, Tehsil and District Bathinda.

A Coordinate Bench of this Court in the case of **Dyal Singh and others versus The State of Punjab and others (supra),** in somewhat similar circumstances, had set aside the order imposing additional stamp duty upon transfer of the property in the name of Class-I legal heirs. The operative part of the order is reproduced hereunder:-

> "Section 3-C of the Act specifically provides that every instruments, mentioned in entry 23 of Schedule 1-A chargeable with duty under Section 3 of the Act, shall be liable for charging additional duty if the instrument by which the property is transferred falls within the jurisdiction of Municipality or a Corporation or within the area of 5 KMs of the outer limit of the Municipality or Corporation, as the case may be. The word "Social Security Fund" provided in Section 3-C of the Act is "instrument chargeable with additional duty" but the "instrument chargeable with duty" is provided in Section 3 of the Act, which provides every instruments, which are chargeable with duty but with a exception which is provided in Section 9 of the Act in which

----

> the Legislature has provided that the Government may by Rule or order published in the Official Gazette reduce or remit, whether prospectively or retrospectively, in the whole or any part of the territories under its administration, the duties with which any instruments, or any particular class of instruments, or any of the instruments belonging to such class or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class are chargeable. In pursuance of Section 9(1)(a) of the Act, Government of Punjab, Department of Revenue and Rehabilitation issued notification on 21.12.2001, as per which the transfer of immovable property to Class-1 heirs by conveyance deed is not chargeable to the Stamp Duty.
>
> It is not in dispute that the petitioners are the sons of Ajmer Singh and thus are the Class-1 legal heirs in view of Section 8 of the Hindu Succession Act, 1956. The 'Conveyance Deed' is defined in Section 2(10) of the Act, which is chargeable with duty and thus the exemption is granted to such a document vide notification issued under Section 9(1)(a) of the Act, which is chargeable with duty, even if the land of the petitioners falls within the radius of 5 KMs within the Municipal Limits, Patiala City, the petitioners are not liable to pay the Stamp Duty of Rs.5,21,880/- calculated @ 3%."

Therefore, as the transfer deed had been executed by the father of the petitioner in the name of the petitioner pertaining to agricultural land, it would be exempt from additional stamp duty. The impugned orders imposing the additional stamp duty are unsustainable.

Consequently, the petition is allowed and the impugned orders 03.03.2016 (Annexure P-1) and 23.05.2018 (Annexure P-3) are set aside.

(ANUPINDER SINGH GREWAL)
JUDGE

December 12, 2022
sonia gugnani

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No