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

**CWP No.31103 of 2019 (O&M)
Date of Decision: 23.08.2022**

NARINDER KAURPetitioner
Vs
STATE OF PUNJAB AND ANOTHERRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Parvinder Singh, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner has preferred this writ petition for the issuance of an appropriate writ, order or direction especially in the nature of certiorari, quashing the notice/order dated 23.09.2019 issued/passed by respondent No.2 i.e. Sub-Registrar-cum-Assistant Collector, First Grade, Nawan Shahr, District Shaheed Bhagat Singh Nagar, Punjab in purported exercise under the provisions of the Punjab Land Revenue Act, 1887.

Perusal of the impugned notice/order would show that the sale deed No.2502 was registered on 09.09.2010. Notice was issued to the petitioner requiring her to deposit an amount

of Rs.1,32,373/- towards the deficit stamp duty.

Learned counsel for the petitioner submits that under Section 47-A of the Punjab Stamp Act, 1982, deficiency in stamp duty can only be recovered after making legal reference by the Sub-Registrar to the Collector. On receipt of such reference, the Collector in terms of Section 47-A(3) of the Act shall proceed to determine deficiency in the stamp duty after giving due notice to all the stake holders. This exercise can be done by the Collector within a specified period of three years.

In the instant case, no such reference has been made to the Collector in terms of Section 47-A of the Act. The Sub-Registrar himself has proceeded to issue notice after alleged determination of deficient stamp duty which is not within his jurisdiction. Respondent No.2 has exercised his power in purported exercise of the provisions under the Punjab Land Revenue Act, 1887.

The issue is relatable to deficiency in stamp duty which is to be determined on legal parameters as laid down under Section 47-A of the Punjab Stamp Act, 1982. In this context, reference can be made to **Harbans Singh and another vs. State of Punjab and others, 2009(2) S.C.T. 326**; **Sharmila Rani and others vs. State of Punjab and others, 2016(3)**

R.C.R. (Civil) 166 and Eshbeen Kaur vs. State of Punjab and others, 2016(4) R.C.R. (Civil) 673.

Evidently, after registration of sale deed on 09.07.2010, cognizance could have been taken by the Collector in terms of Section 47-A(3) of the Punjab Stamp Act, 1982. Taking of cognizance by the Sub-Registrar-cum-Assistant Collector on 23.09.2019 is without jurisdiction and the same is in utter violation of principles of natural justice and the procedure prescribed under the aforesaid Act. The order has been passed by the authority having no jurisdiction. In addition to order being without jurisdiction, the same is patently time barred in terms of Section 47-A(3) of the Indian Stamp Act as applicable to the State of Punjab.

For the reasons recorded hereinabove, the impugned notice/order dated 23.09.2019 issued/passed by respondent No.2 i.e. Sub-Registrar-cum-Assistant Collector, First Grade, Nawan Shahar, District Shaheed Bhagat Singh Nagar, Punjab is set aside. Petition stands allowed. Normal consequences to follow.

August 23, 2022

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No