

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

229

RSA-1030-1993 (O&M)

Date of decision: 19.10.2023

The Sutlej Co-Operative House Building Society Ltd.

....Plaintiff-appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Satinder Khanna, Advocate for the appellant.
Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY. J.

1. Challenge in the instant regular second appeal is to the judgment and decree dated 30.01.1993 passed by learned Additional District Judge, Ludhiana, allowing the appeal filed by the defendant-respondent against the judgment and decree dated 02.01.1987 rendered by Sub Judge, 1st Class, Ludhiana, vide which the suit for recovery filed by the plaintiff-appellant was partly decreed.

2. Learned counsel contends that the land was purchased by the society from 73 land-owners vide sale deed for which stamp papers worth Rs.4,17,730.50/- was paid but in terms of Notification dated 15.07.1948 the Society exempted from payment of stamp duty, the recovery of which the suit filed by it was rightly decreed, however, it was wrongly reversed by the lower Appellate Court, without properly appreciating the aforesaid aspect of the matter.

3. Learned State counsel however, contends that the lower Appellate Court had rightly considered and decided the case. The present appeal deserves to be dismissed.

4. Heard and perused.

5. It is apposite to refer to the relevant para of the judgment of the lower appellate Court, while allowing the appeal, which reads thus:

“11. On careful perusal of the notification referred to above, I find that remission of stamp paper duty has been granted only in respect of instruments executed by or on behalf of the society for the time being registered or deemed to be registered under the Co-operative Societies Act. Now, the sale-deeds upon which the plaintiff society has already paid the stamp duty were not executed by or on behalf of the plaintiff society rather these were executed in favour of the plaintiff society and as such, the plaintiff society was not exempted from the payment of stamp duty by the instruments which were executed in favour of the plaintiff society.”

6. In **Kondiba Dagadu Kadam vs. Savitribai Sopan Gujar**, (1999) 3 SCC 722, Hon’ble The Supreme Court had observed and held that, “...The High Court cannot substitute its opinion for the opinion of the first appellate court unless it is found that the conclusions drawn by the lower appellate court were erroneous being contrary to the mandatory provisions of law applicable or its settled position on the basis of pronouncements made by the Apex Court, or was based upon inadmissible evidence or arrived at without evidence.”

7. Learned counsel for the appellant has not been able to point out any error in reading of the Notification by the lower Appellate Court and this Court finds the present case to be not the one falling within the permissible parameter of interference.

8. There is no perversity in the impugned judgment passed by the lower Appellate Court.

9. Dismissed.

(AMAN CHAUDHARY)
JUDGE

19.10.2023

Ankur

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No