

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

201

2023:PHHC:063793

CWP-11131-2019

Date of decision: 03.05.2023

NAVNEESH KUMAR

..Petitioner

Versus

THE COMMISSIONER, FARIDKOT AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anurag Jain, Advocate
and Ms. Suruchi Sharma Tewari, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. DAG, Punjab.

ANIL KSHETARPAL, J(Oral)

1. While exercising the power under Section 47A of Indian Stamp Act, 1899, the Collector in the present case has held that there is an attempt to evade the payment of stamp duty, hence, the amount of sale consideration has been assessed at Rs.1,99,76,000/- while directing the petitioner to make good the deficiency of the stamp duty. On reading of the impugned order, it is evident that the Collector has drawn its conclusion on the basis of the audit objection and the site inspection report.

2. The order passed by the Collector has been upheld in appeal by the Commissioner. Under Section 47A, the Collector is given the powers to decide the case as a *quasi judicial* Tribunal. Before arriving at a conclusion with respect to the quantum of the deficient stamp duty, the Collector or the State Government is required to rely on some material evidence produced to corroborate the findings. The site inspection report merely proves that the land was not used for the agricultural purposes, however, it is not an evidence of the market value of the property.

3. Similarly, the audit objection is only meant for the government officials. The audit party has no jurisdiction to assess the correct amount of sale consideration/market value of the property.
4. An identical issue was deliberated and decided in **CWP-19385-2014, titled as “Romesh Singla and others Vs. State of Punjab and others”, decided on 29.03.2023.**
5. The relevant discussion is given in paras 4 to 6 of the judgment, which are extracted as under:-

“4. Once the Collector had come to a conclusion that the nature of the property, which was the subject matter of sale deed, was not agricultural but residential, the authority should have collected some evidence to prove that the appropriate stamp duty has not been paid by the parties to the sale deed. The aforementioned orders have been passed by the quasi judicial Tribunals that affect the rights of the parties involved. Hence, the orders are required not only to be speaking but also to be based on some material evidence to support the conclusion drawn by the Court. From a careful reading of the orders passed by the Collector as well as the Appellate Authority, it is evident that there is no reference whatsoever to any material evidence in support of the conclusion drawn.

5. In CWP-6378-2020 and CWP-8464-2020 the Collector has passed the order solely on the basis of an audit note. The Appellate Authority has based its conclusion on the Collector's rates, which are not statutory so they do not bind the Court. The Collector's rates are issued only for the guidance of the registration authorities. However, such rates are never final and binding. A quasi judicial authority like the Collector, while passing the orders under the Indian Stamp Act, 1899, is required to return a positive finding with regard to the deficiency in the payment of the stamp duty based on some admissible evidence.

6. It is evident that in all these cases the impugned orders lack the basic requirement of the quasi judicial order. The Presiding Officer of the quasi judicial Tribunal is expected to critically analyse the material brought on record before arriving at any conclusion. A reading of the orders show that the Presiding Officer has failed to fulfill the necessary requirements of passing an order.”

6. For the various significant reasons, the order passed by the Collector on 21.03.2016, which has been confirmed in the appeal by the Commissioner on 11.04.2018 is set aside. The Collector is directed to decide the matter afresh after granting an opportunity of hearing to the parties within a period of 9 months from today, positively.

7. The parties through their learned counsel are directed to appear before the Collector on 01.06.2023.

8. With these observations, the present petition is disposed of.

9. All the pending miscellaneous applications, if any, are also disposed of.

May 03rd, 2023

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*