

[153] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13035-2023

Date of Decision :23.11.2023

Karun Bansal and another

...Petitioners

versus

Divisional Commissioner, Patiala

Division, Patiala and others

....Respondents

Coram : **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

Present : Mr. Parveen Kumar Garg, Advocate for the petitioner.

SANJEEV PRAKASH SHARMA, J. (ORAL)

[1] The petitioners have come before this Court, assailing the order passed by the Commissioner whereby the Divisional Commissioner has rejected the appeal preferred by the petitioners under Section 47-A of the Indian Stamp Act, 1899, confirming the order passed by the Collector dated 20.11.2019 whereby the sale deed executed in favour of the petitioners dated 23.05.2017 is sought to be impounded.

[2] Learned counsel submits that the respondents have wrongfully treated the land purchased by the petitioners to be residential and the rate of stamp duty has been wrongly enhanced to Rs.1,00,75,782/- instead of treating the land as agricultural land with a stamp duty of Rs.64,97,000/-. Learned counsel submits that as per the rates for Tehsil Sunam Udham Singh Wala laid down by the Collector for the year 2022-23 w.e.f. 11.07.2022, the land from the boundary of Committee upto Khadiyal Rajwah (upto depth of 2 acre) was to be treated as an agriculture land and for residential use of the above *khasras*, the rates were separately fixed. However, the respondents have wrongfully assessed the

[3] I have given my thoughtful consideration to the submissions.

[4] This Court under Article 227 of the Constitution of India, while exercising supervisory jurisdiction, relating to an order passed by *quasi judicial authority*, would have a limited scope of interference.

[5] The law in this regard is settled by the Hon'ble Supreme Court in 'M/s Puri Investments versus M/s Young Friends and Co. & others', 2022 Livelaw (SC) 279. Relevant extract of the same is reproduced as under:-

“10. In the case before us, occupation of a portion of the subject-premises by the three 5 doctors stands admitted. What has been argued by the learned counsel for the appellant is that once the Tribunal had arrived at a finding on fact based on the principles of law, which have been enunciated by this Court, and reflected in the aforesaid passages quoted from the three authorities, the interference by the High Court under Article 227 of the Constitution of India was unwarranted. To persuade us to sustain the High Court's order, learned counsel appearing for the respondents has emphasized that full control over the premises was never ceded to the medical practitioners and the entry and exit to the premises in question remained under exclusive control of the respondent(s)-tenant. This is the main defence of the tenant. We have considered the submissions of the respective counsel and also gone through the decisions of the fact-finding fora and also that of the High Court. At this stage, we cannot revisit the factual aspects of the dispute. Nor can we re-appreciate evidence to assess the quality thereof, which has been considered by the two fact-finding fora. The view of the forum of first instance was reversed by the Appellate Tribunal. The High Court was

conscious of the restrictive nature of jurisdiction under Article 227 of the Constitution of India. In the judgment under appeal, it has been recorded that it could not subject the decision of the appellate forum in a manner which would project as if it was sitting in appeal. It proceeded, on such observation being made, to opine that it was the duty of the supervisory Court to interdict if it was found that findings of the appellate forum were perverse. Three situations were spelt out in the judgment under appeal as to when a finding on facts or questions of law would be perverse. These are:-

- (i) Erroneous on account of non-consideration of material evidence, or*
- (ii) Being conclusions which are contrary to the evidence, or*
- (iii) Based on inferences that are impermissible in law.*

11. We are in agreement with the High Court's enunciation of the principles of law on scope of interference by the supervisory Court on decisions of the fact-finding forum. But having gone through the decisions of the two stages of fact-finding by the statutory fora, we are of the view that there was overstepping of this boundary by the supervisory Court. In its exercise of scrutinizing the evidence to find out if any of the three aforesaid conditions were breached, there was re-appreciation of evidence itself by the supervisory Court."

[6] The Commissioner has examined the plea as set up by the petitioners before this Court and has found that the petitioners' land has been sold from *khewat No.474*. The other part of the land from *khewat No.474* has been also sold as a residential land and the same falls under Code C-24 wrongly mentioned as E-24. In view of the said factual

purchased, being treated as residential, there is no provision to treat the petitioners' land as agricultural. The land would therefore also have to be treated as a residential land.

[7] Examining the said aspect otherwise also this Court finds that in the appeal preferred by the petitioners, they have themselves stated in para No.4 as under:-

“ That the Ld. Lower Court illegally and wrongly mentioned in the impugned order that the land measuring 441 Marlas of Khasra No.441 falls in Code-E24 and 328.50 Marlas falls in Code Arra-15. The Ld. Lower Court illegally and wrongly ignored the fact that the total land is 168 Kanals 12 Marlas and appellants purchased the land measuring 4 Acres 6 Kanals 9.50 Marlas from the joint Khewat. However, neither the vendors were in possession of Khasra No.441 nor they had given the possession of the said land to the appellants. It is also worthwhile to mention here that the possession of the present appellants is far-away from the link-Road, but the Ld. Lower Court ignored this fact wrongly and illegally, while announcing the impugned order under appeal. ”

[8] From above, it is apparent that the petitioners' land measuring 4 acres 6 kanals 9.50 marlas is from the joint *khewat*. Thus, the *khewat* as mentioned in the order impugned, has been sub-divided and sold to several other persons including the petitioners. Once, the other persons, who have purchased land from the same *khewat* has been treated as residential, the petitioners' land would also have to be treated as residential. The petitioners' sale deed or appeal also does not

anywhere mention the *khasra* number of the petitioners’ land separately.
Thus, the land has been rightly treated to be residential for which the petitioners are required to pay the stamp duties as prescribed for the residential purposes. The order passed by the Collector as upheld by the Commissioner, therefore, does not warrant any interference.

[9] In view thereof, the writ petition is *dismissed*.

(SANJEEV PRAKASH SHARMA)
JUDGE

23.11.2023
'Rajneesh'

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