In the High Court for the States of Punjab and Haryana
At Chandigarh

CWP-14406-2023 (O&M)
Date of Decision:-21.08.2023

Rajinder Garg … Petitioner

Versus

State of Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sanjay Tangri, Advocate, for the petitioner.

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GURVINDER SINGH GILL, J.(Oral)

1. The petitioner assails order dated 02.06.2022 (Annexure P-8) wherein the Additional Deputy Commissioner-cum-Collector, SAS Nagar (hereinafter to be referred as 'the Collector') in exercise of powers conferred under Section 47-A of the Stamp Act, has held that there is a deficiency of stamp duty to the extent of Rs.10,44,900/- which has been upheld by the Commissioner, Roopnagar Mandal, Roopnagar, in appeal vide order dated 3.1.2023 (Annexure P-11).

2. A few facts necessary to notice are that the petitioner vide sale deed dated 15.7.2013 purchased land measuring 9 kanals of land at Village Mubarakpur,

Tehsil Derabassi, District SAS Nagar. A notice under Section 47-A was issued for 21.3.2016 (Annexure P-2). The Collector upon considering the matter passed order dated 24.3.2017 wherein stamp duty was found to be deficient to the amount of Rs.10,44,900/-. The petitioner preferred an appeal wherein the Commissioner vide order dated 22.10.2021 (Annexure P-6) set aside the order passed by the Collector and remanded the matter back to the Collector for passing a fresh order. Some of the observations as recorded by the Collector would be relevant to be noticed and the same are reproduced hereunder:

> "Even if 'Ara' and 'Safeda' are indicated in the Girdawari, the Collector has not investigated about in how much area the Ara is existing and in how much area the Safeda has been planted. The collector also did not clarify why it has not considered safeda as agriculture and considered it as commercial."

3. Pursuant to remand of the matter, the matter was again taken up by the Collector wherein the findings as recorded therein were reiterated vide impugned order dated 2.6.2022 (Annexure P-8). As already stated above the appeal filed by the petitioner in the second round also came to be dismissed vide order dated 3.1.2023 (Annexure P-11).

4. Learned counsel for the petitioner has vehemently argued that although the Commissioner while passing order dated 24.3.2017 (Annexure P-5), vide which the initial order dated 24.3.2017 passed by the Collector had been set aside, had clearly recorded that the Collector while assessing had not conducted investigation as to how much area was occupied by 'Ara' (saw-mill) and in how much area the *Safeda* trees existing, but even the subsequent order passed pursuant to remand is silent on this aspect.

5. Learned counsel further submits that as a matter of fact a *Patwari* had visited the premises, on the basis of which the Sub-Registrar submitted his report dated 22.9.2016 wherein it was clearly mentioned that no 'Ara' or boundary wall was existing thereupon. Learned counsel submits that in these circumstances the impugned order deserves to be set aside having been passed against the factual position at the spot as the impugned orders have been passed simply on the basis of the entries recorded in the revenue record. Learned counsel further submitted that as a matter of fact in the *Jamabandi* for the year 2010-11 i.e. annexed as Annexure P-1 there is no mention of any Ara (sawmill) existing at the spot and which would negate the case of State regarding the land being commercial.

6. This Court has considered the aforesaid submissions addressed before this Court.

7. As far as the *Jamabandi* for the year 2010-11 is concerned, the same would not be of much avail to the petitioner inasmuch as the sale deed came to be executed in July, 2013 whereas the entries recorded in the *jamabandi* pertain to a period prior to the sale deed.

8. As far as the report of Sub Registrar dated 22.9.2016 is concerned, the same would also be not significant inasmuch as the said report is based on an inspection conducted by *Patwari* in the year 2016 whereas the material date would be when the sale deed was executed in July 2013. In this context a perusal of the impugned order passed by the Collector indicates that the Collector has placed reliance upon *Khasra Girdawries* for the years 2012-13, 2013-14 and 2014-15 in respect of the Khewat Nos.57//14(8-0) wherein there is a consistent and categoric record to the effect that *Ara* machine was

existing. The said entries in the *Khasra Girdwaris* are recorded twice a year after inspecting the spot and would be more relevant as regards the manner in which land is being used. There is nothing convincing on record to rebut these entries. The Collector has assessed the land at 2 different rates i.e. while 8 kanals has been assessed as commercial wherein 'sawmill' was existing, the remaining one kanal which was found to be four-walled had been assessed as residential land. The said findings had been upheld by the Commissioner as well. In these circumstances, this Court does not find any infirmity in the impugned orders and the same are hereby upheld.

9. The instant writ petition is dismissed accordingly.

21.08.2023 **(GURVINDER SINGH GILL)**
mohan **JUDGE**

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