102.

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-30308-2022
Date of Decision: 05.01.2023

MUKESH SINGH AND ANOTHER .... Petitioners

Versus

STATE OF PUNJAB AND OTHERS .... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Inderjit Sharma, Advocate, for the petitioners.

JAISHREE THAKUR.J (Oral)

This is a writ petition that has been filed under Article 226/227 of the Constitution of India for issuance of any writ, order or mandate especially in the nature of certiorari for quashing the impugned notice dated 05.12.2022, Annexure P-4, whereby respondent No.3-Additional Deputy Commissioner(G)-cum-Collector, S.A.S. Nagar, has directed the petitioners to put in an appearance in proceedings under Section 47-A of the Indian Stamp Act (for short, 'the Act') for recovering deficit stamp duty.

In brief, the facts of the case are that the petitioners herein purchased a plot bearing No.942 in Sector 124, Mohali, for a sale consideration of Rs.16 lakhs from M/s Bajwa Developers Limited. The sale deed for the said plot was registered on 10.01.2019 and the stamp duty of Rs.80,000/-, as per Collector rate, was duly affixed. However, the petitioners herein entered into an Exchange Deed dated 17.07.2020 with one Deepak Sharma son of Shri Hari Om Sharma in respect of the said plot with another piece of land and the petitioners were put in possession over the plot exchanged. Thereafter, the petitioners raised construction on the said plot and are residing therein. The petitioners herein now have received a notice under Section 47-A of Act directing them to pay the deficit stamp duty in respect of the Exchange Deed dated 17.07.2020.

Learned counsel appearing on behalf of the petitioners herein would contend that Section 47-A of the Act is not applicable in the instant case considering the fact that the stamp duty had duly been paid on the plot purchased as far back as on 10.01.2019. It is subsequently thereafter that an Exchange Deed took place with one Deepak Sharma and there is no provision for charging deficit stamp duty under Section 47-A of the Act considering the fact that there was no deficit stamp duty when the plot had been initially purchased by the petitioners herein.

I have heard learned counsel for the petitioners and find that the petitioners have approached this Court taking all the pleas as available to them against a show cause notice. The plea that the provision of Section 47-A of the Act are not applicable on an Exchange Deed are pleas that have to be taken up before the authorities concerned. The present writ petition is premature and, therefore, the petitioners herein are directed to put an appearance before the authorities concerned and take up all pleas as taken herein before this Court.

Present writ petition stands disposed of accordingly.

(JAISHREE THAKUR)
JUDGE

05.01.2023
sanjeev Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No