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

201

**CWP No. 37407 of 2019 (O&M)
Date of Decision: 14.02.2023**

Karnail Singh .....Petitioner

Versus

State of Punjab and others .....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rohit Kumar, Advocate for the petitioner.
Mr. R.K.Kapoor, Addl.A.G., Punjab.

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ANIL KSHETARPAL, J.

1. Through this petition, the petitioner assails the correctness of the order dated 15.06.2016 passed by the Collector, Bathinda which was upheld in appeal by the Commissioner on 30.01.2019. In substance the dispute is with regard to the appropriate stamp duty payable on the sale deed executed on 09.08.2012 whereby the petitioner purchased the land measuring 8 Kanal 6.50 Marlas for Rs. 25,19,000/- as consideration.

2. After having heard learned counsel representing the parties at length, this Court is of the considered view that the impugned orders are not sustainable for more than one reason. At this stage, it would be appropriate to extract the relevant portion of order dated 15.06.2016 passed by the Collector.

> *"After going through the file and record. Today Vandee did not appear despite service of the summons. According to the letter no. 233/R.C dated 06.07.2015 and after agreeing with the report it is ordered to recover an amount of Rs. 8,50,956/- (Eight Lac Fifty Thousand Nine Hundred Fifty Six) along with 12% simple interest from the date of sale deed till date. Notice Form No. 2 is attached.*
>
> *Order dictated. File be consigned in the record room*

Bathinda."

3. While deciding cases under Section 47-A of the Indian Stamp Act, 1899 the Collector exercises the quasi judicial functions. Hence the order is required to be a speaking order supported by proper reasons. Moreover, the Collector is required to apply judicial mind while assessing the amount of deficient stamp duty. There has to be some material evidence on the file which justifies the conclusion that the proper stamp duty has not been paid by the party. On careful reading of the impugned order it is evident that the Collector has passed the order merely on the basis of a report. This is not a correct manner to pass a quasi judicial orders particularly when the petitioner is made liable to pay an additional stamp duty of Rs. 8,50,956/- along with 12 % simple interest from the date of sale deed till its realization. Even the Commissioner while deciding the appeal has relied upon the Collectors' rates which are issued only for the purpose of guidance to the registering authority. The Collector rates or D.C rates are not issued in exercise of powers conferred by any statute. Such rates cannot be made the sole basis to return a finding that the appropriate stamp duty has not been paid. The functioning of quasi judicial bodies in a proper manner is paramount as they deal with the vital matters exclusively conferred upon them.

4. Keeping in view of the aforesaid facts, the orders dated 15.06.2016 and 30.01.2019 are quashed. The Collector is directed to decide the matter afresh after granting an opportunity of hearing to the petitioner. The petitioner through his learned counsel is directed to appear before the office of Collector on 09.03.2023 at 10.00 A.M. It is expected that the Collector will make a sincere endeavour for the expeditious disposal of the matter preferably within a period of six months, from today, positively.

5. Disposed of accordingly.

14.02.2023 **(ANIL KSHETARPAL)**
Rajeev (rvs) **JUDGE**

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