

CWP-2218-2022

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CWP-2218-2022
Date of decision:-14.03.2024

GURNAM SINGH ...PETITIONER

VERSUS

DIVISIONAL COMMISSIONER, PATIALA DIVISION, PATIALA &
ORS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Kanish Jindal, Advocate &
Mr. Arun Jindal, Advocate for the petitioner.

Mr. Amit Chaudhary, DAG, Punjab.

SUVIR SEHGAL, J.(ORAL)

1. On 04.05.2022, while issuing notice to the respondents, this
Court passed the following order:-

*“This is a petition that has been filed for
quashing the order dated 30.05.2017 (Annexure P-2)
whereby reference was accepted by the District
Collector, Barnala and recovery of Rs.1,37,140/- (i.e.
deficiency in stamp duty of Rs.1,28,695/- and registration
charges of Rs.8,445/-), was ordered and the order dated
27.07.2021 (Annexure P-4) passed by the Divisional
Commissioner, Patiala Division, Patiala, vide which the
appeal filed by the petitioner was dismissed being time
barred.*

*Learned counsel appearing on behalf of the petitioner would contend that sale deed was registered on 29.03.2006 and the reference was made by the Sub-Registrar to the Collector pertaining to alleged deficiency in stamp duty, after a period of 9 years, which is not sustainable. He would further contend that at the time of registration of document, no objection was raised by the Sub-Registrar regarding deficiency of stamp duty and, therefore, after the same was registered, the Sub Registrar became functus officio and would not be competent to forward any such reference to the Collector under Section 47-A of the Indian Stamp Act regarding alleged deficiency of stamp duty payable. In this regard, he would rely upon judgment rendered in **Abhinav Kumar Versus State of Haryana and others 2001(1) R.C.R. (Civil) 91; Jagdish Versus State of Haryana and others 2011(5) R.C.R. (Civil) 486 and Pankaj Gupta and others Versus State of Haryana and others-2014(3) R.C.R. (Civil) 590** wherein it has been held that once a Sub Registrar registers a document, he would become functus officio.*

Notice of motion.

At this stage, Mr. Pawan Sharda, Senior DAG, Punjab, who is present in Court, accepts notice on behalf of the respondents-State and seeks time to file reply.

Adjourned to 23.11.2022.

In the meantime, no coercive steps in pursuance to the impugned orders shall be taken against the petitioner.”

2. In their reply, official respondents No.1 and 2 have submitted that they had received a complaint on 27.05.2014 from one Mr. Tarsem Lal

CWP-2218-2022

-3-

Jindal and after investigation, vide letter dated 02.03.2015, Deputy Commissioner, Barnala, directed the Collector to take action under Section 47-A of the Indian Stamp Act, 1899. Pursuant thereto, sale deed was impounded and by letter dated 10.03.2015, it was referred to the District Collector, Barnala, to recover Rs.1,37,140/- as deficient stamp duty and registration fee. Reference has also been made to a report of SDM, Barnala, dated 17.03.2017 to submit that the sale deed has been registered under a wrong code. Still further, it has been submitted that the petitioner was proceeded against ex parte before the Collector vide impugned order dated 30.05.2017, Annexure P-2, who directed the recovery of deficient stamp duty. Still further, it is the submission of the respondents that the appeal preferred by the petitioner, has been dismissed as it was barred by time.

3. I have heard counsel for the parties and considered their respective submissions.

4. Similar question came up for consideration before this Court in CWP-824-2018 titled as ***Amandeep Singh Versus The State of Punjab and others*** decided on 05.12.2019, whereby while deciding a bunch of petitions, this Court held as under:-

“In Raghbir and others Versus State of Haryana and others, 2004(1) PLR 545, another Division Bench of this Court held that no action can be taken by a Collector under sub-Section (3) of Section 47-A of the Act after expiry of three years from the date of registration of the instrument. Consequently, the argument of the State that the action had been initiated within the prescribed period is without any merit.

Coming to the second argument raised by the State, it deserves to be mentioned that once the very initiation of the proceedings is beyond the prescribed period and the result of the proceedings is a foregone conclusion, no useful purpose would be served in forcing the petitioner to file reply to the show cause notice and face the proceedings before the authorities. Accordingly, the second argument of the State also does not survive.

*It may further be noticed that this Court had in a number of decisions interfered and quashed the show cause notices where it found that the notices had been issued in violation of the provisions of Section 47-A of the Act. Reference in this regard may be made to the Division bench judgments in **Smt. Chand Kaur and others versus State of Haryana and others**, 2008(3) R.C.R. (Civil) 776; **Sub Registrar, Nuh and another Versus Mahipal and others**, 2012(5) R.C.R.(Civil) 475; **Atam Praksh Pasricha Versus State of Haryana and others**, 2015(8) R.C.R. (Civil) 834 and **Eshbeen Kaur Versus State of Punjab and others**, 2016(4) R.C.R. (Civil) 673.”*

5. This judgment has attained finality and was never challenged by the State.
6. In view of the above, writ petition is allowed and impugned orders, Annexures P-2 and P-4, passed by official respondents No.2 and 1, respectively, are quashed.

14.03.2024
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No