IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(105)

CWP-19461-2024
Date of decision:- 13.08.2024

Harjinder Singh and others **... Petitioner**

Versus

State of Punjab and others **... Respondents**

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Kashish Garg, Advocate
for the petitioners.

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SUVIR SEHGAL, J. (*ORAL*)

1. Instant writ petition has been filed under Article 226/227 of the Constitution of India *inter-alia* for issuance of a writ in the nature of certiorari for quashing orders dated 30.03.2021 and 24.05.2023, Annexures P-2 and P-4, respectively, passed by Collector-respondent No.3, and order dated 14.02.2024, Annexure P-5, passed by Commissioner, Faridkot Division, Faridkot-respondent No.2 as well as report dated 18.12.2020, Annexure P-6, submitted by the Tehsildar-respondent No.4, whereby deficiency in stamp duty has been assessed at Rs. 15,61,450/- and has been ordered to be recovered along with simple interest @ 12% per annum.

2. Case of the petitioners is that they had purchased 2 kanal 16-7/10 marla agricultural land in village Patti Gill, Teshil and District Bathinda by sale deed, which was registered on 08.11.2013, Annexure P-1, and deposited the requisite stamp duty. After receiving a notice from the

Collector, whereby proceedings under Section 47-A of the Indian Stamp Act, 1899 were initiated, petitioners appeared before him. A report was called for from the Tehsildar, Bathinda and by order dated 30.03.2021, Annexure P-2, Collector came to the conclusion that the land was commercial in nature and deficit stamp duty had been affixed. Petitioners filed an appeal before the Commissioner, which was accepted by order dated 09.11.2022, Annexure P-3, and the matter was remanded to the Collector to pass fresh orders, after examining the record of the acquisition proceedings. SDM, Bathinda sent a report dated 01.03.2023, Annexure P-7, intimating that the petitioner's land had been acquired and compensation had been granted to them under the residential category. However, overlooking this report, the Collector personally inspected the spot and found that a workshop for repair of trucks was running in the area and the land was adjoining the Bathinda-Sri Amritsar Sahib main road. He came to the conclusion that as the land was being utilized for commercial purpose, petitioners were required to pay the balance stamp duty. Petitioners approached the Commissioner by filing an appeal, which was rejected by order dated 14.02.2024, Annexure P-5. In the above background, petitioners are before this Court challenging the orders as noticed above.

3. Besides contending that the authorities have erred in discarding the report of the Tehsildar and the SDM, counsel for the petitioners urges that the Commissioner has dismissed the appeal by passing a non-speaking order and the impugned appellate order cannot be sustained.

4. Issue notice to the respondents.

5. On asking of the Court, Mr. Anil Bansal, DAG, Punjab accepts notice. He has supported the orders passed by the authorities.

6. Given the nature of order being passed, this Court does not deem it necessary to call for a response from the respondents.

7. It is apposite to notice and reproduce hereunder the operative part of the order, Annexure P-5, passed by the Appellate Authority.

> *"On meticulous perusal of the record on file and after hearing counsel for the appellants, I reach to conclusion that order under appeal has been passed by Collector, Additional Deputy Commissioner (Z), Bathinda after inspecting the area under sale deed at spot and on admitting to be correct objection raised by audit party. Therefore, there being no discrepancy in order passed by Collector, Additional Deputy Commissioner (Z), Bathinda, the same is upheld and appeal by appellants is dismissed.*
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> *Order is pronounced. Record of Court below should be returned and the case file of this Court after compliance be sent to the record room."*

8. A bare perusal of the above reproduced order shows that the appellate authority has not considered the contentions of the counsel for the petitioners. It is simply endorsed the order passed by the Collector without recording any reasons in support thereof. In ***M/s Kranti Associates Pvt. Ltd. and another Versus Masood Ahmed Khan and others (2010) 9 SCC 496***, Supreme Court held that reasons have virtually become an

indispensable component of decision making process and facilitate the process of judicial review by superior Courts. It observed that a judicial/quasi-judicial authority must record reasons in support of its conclusion as it operates as a valid restraint on any possible arbitrary exercise of power. The Apex Court was of the view that insistence on reasoning is a requirement for both judicial accountability as well as transparency. It was imperative for the Appellate Authority to deal with the arguments advanced, points urged and assign reasons affirming or disagreeing with the submissions made. As the impugned appellate order, Annexure P-5, is *sans* reason and there is total non-application of mind, the order cannot be sustained.

9. For the afore-going reason, impugned order, Annexure P-5, passed by the appellate authority is set aside and the matter is remitted to respondent No.2 to decide it afresh by passing a reasoned order, after hearing the parties.`

10. Petition is disposed of.

11. Parties are directed to appear before the Commissioner, Faridkot Division, Faridkot-respondent No.2 on 14.10.2024, at 10:00 A.M., for further proceedings.

13.08.2024 **(SUVIR SEHGAL)**
Kamal **JUDGE**

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No