IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

203 **CWP-18165-2018**
Date of decision :-06.03.2024

Neeru and another ...Petitioners

Versus

Commissioner, Ambala Division, Ambala and others ...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.S. Dinarpur, Advocate for the petitioners.

Mr. Aman Bahri, Addl. A.G., Haryana.

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SUVIR SEHGAL, J. (ORAL)

1. By way of present writ petition under Article 226/227 of the Constitution of India, petitioners have approached this Court for issuance of a writ in the nature of certiorari quashing orders dated 15.01.2014 and 04.04.2018, Annexures P-2 and P-3, passed by respondents No.2 and 1, respectively, whereby petitioners have been found liable to deposit Rs.1.99 lacs as deficient stamp duty.

2. Brief background may be noticed.

3. Petitioners purchased agricultural land measuring 5 kanals 18 marlas vide sale deed dated 03.05.2012 and paid the requisite stamp duty at the time of its registration. Mutation, Annexure P-1, was entered in their name. On the basis of an audit objection, matter was referred to the

Collector, who summoned the petitioners and initiated proceedings under Section 47-A of the Stamp Act, 1899, as applicable to Haryana. Petitioners contested the reference proceedings and by order, Annexure P-2, respondent No.2 directed the petitioners to pay an additional amount as noticed above. Petitioners remained unsuccessful in appeal before the Commissioner, which was dismissed vide order, Annexure P-3. Assailing both the orders, they are before this Court by way of present writ petition.

4. Upon notice, writ petition has been contested by the respondents by filing a reply, wherein it has been submitted that the property in question fell within the residential/urban zone and the Collector rates for the property are separately affixed, whereas at the time of the registration of the sale deed, petitioners had paid stamp duty by declaring that the purchased land is agricultural.

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

6. The relevant extract of order, Annexure P-2, passed by respondent No.3 is as under:-

> *"I have heard Sh. Yogesh Mohan Sharma, Advocate and have gone through all the facts available on the record land measuring 5K-18M has been purchased by the respondents vide sale deed no. 375/1 dated 3.5.2012 in the revenue estate of village Khangesra. It is also relevant to clarify here that the decision dated 19.12.2005 passed by Allahabad High Court in CWP No. 32595 of 2003 titled as Naushad Ahmed & Ors. Vs. State of U.P. & Ors. is not applicable to the facts of the case because in this district the collector rates of agricultural land falling in residential*

> *zone/urban zone have been fixed separately @ per acre and not in terms of sq. yards or residential plots. Decision dated 24.03.2005 passed by Allahabad High Court in case CWP No. 39705 of 1996 titled as Mukesh (Minor) Vs. Chief Revenue Controlling Authority/Board of Revenue, UP & Allahabad is also not applicable in this case. Audit objection raised by Stamp Auditor (Circle), Panchkula in his audit note in May, 2012 indicating the deficiency of stamp duty of Rs. 1,99,000/- is without any error, hence I order that stamp duty of Rs. 1,99, 000/- on this sale deed be got deposited from the respondents. Purchaser is directed to deposit the amount before the O/o Sub Registrar, Panchkula within a period of 30 days failing which proceedings U/s 48 of Indian Stamp Act, 1899 will be carried out against them, hence the reference consigned to the record room. File be consigned to the record room after compliance."*

7. While rejecting the appeal, appellate authority-respondent No.1 passed order, Annexure P-3, and its relevant extract is reproduced hereunder:-

> *"5. I have heard the arguments of Ld. Counsels of both the parties and I have also gone through the record available on the file as well as the order passed by the courts below and I have arrived at the conclusion that the appellants by concealing the facts have got the sale deed registered by showing the land in question out of residential zone whereas this land is situated in the residential zone. At the time of registration of sale deed, appellants have not paid the requisite stamp duty and registration fee and the sale deed has been registered at a lower rate. Hence the deficiency of stamp duty and registration fee found by Collector is as per rules and the*

> *same is without any infirmity and I am in agreement with the same. Counsel for the appellants has failed to indicate any illegality in the order passed by the Court below. The recovery imposed by virtue of the order under challenge is lawful. Finding no infirmity with the orders passed by the Courts below, there is no scope to interfere with the order challenged under this appeal. The order passed by the court below is lawful and hence I dismissed (sic dismiss) the appeal filed by the appellant finding no force therein."*

8. Similarly worded orders passed by respondents No.1 and 2 on the same day, came up for challenge in LPA-1037-2021 titled as ***Manju Versus Commissioner, Ambala Division, Ambala and others*** alongwith another appeal, decided on 15.02.2023, wherein after noticing the orders passed by both the authorities and following the judgment of the Supreme Court in ***Kranti Associates Private Limited and another Versus Masood Ahmed Khan and others*** ***(2010) 3 SCC (Civil) 852***, a Division Bench came to the conclusion that the orders under challenge are sans any reasoning and there is no clarity as to on what account the deficiency has been found. Accepting the appeals, the Division Bench set aside both the orders and remitted the matters to the Collector to pass fresh orders.

9. After examining the judgment of the Division Bench, this Court is of the view that the matter is squarely covered and the same course deserves to be adopted.

10. Accordingly, writ petition is disposed of. Impugned orders, Annexures P-2 and P-3, passed by the respondent-authorities are set aside.

11. Matter is remitted to the Collector to pass a fresh order in view of the observations made by a Division Bench of this Court in **Manju's case (supra)**.

12. Parties are directed to appear before the Collector on 10.04.2024 at 10.00 A.M.

06.03.2024 **(SUVIR SEHGAL)**
sheetal **JUDGE**

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