

CWP-21136-2017

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-21136-2017
Date of decision :-08.02.2024

Brij Mohan Goel and another ...Petitioners

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. V.K. Gupta, Advocate for the petitioners.

Mr. Aman Bahri, Addl. A.G., Haryana,
for respondents No.1, 2, 4 to 6.

Mr. Rahul Dev Singh, Advocate for respondent No.3.

SUVIR SEHGAL, J.

1. Instant writ petition has been filed *inter alia* for issuance of a writ in the nature of certiorari for quashing orders dated 28.07.2014, Annexure P-6, and 21.07.2017, Annexure P-11, passed by respondents No.5 and 4, respectively, whereby, petitioners have been directed to deposit deficit stamp duty and penalty.
2. Facts, in brief, may be noticed.
3. Vide allotment letter dated 21.12.2008, Annexure P-1, Haryana Urban Development Authority (HUDA) - respondent No.3 allotted a residential plot to Mr. Chattar Singh. A re-allotment letter dated 17.08.2011, Annexure P-2, was issued and the plot was transferred in the name of the

petitioners. Conveyance deed dated 31.10.2012, Annexure P-3, was executed between them and it was registered after depositing the stamp duty on the total sale consideration. During audit, an objection was raised by respondent No.6 that the conveyance deed had been registered on a lesser value. A notice was issued to the petitioners to recover the balance amount and the petitioners submitted a reply, Annexure P-5. By order, Annexure P-6, respondent No.5 directed the petitioner to deposit an amount of Rs.2,38,603/- which included stamp duty, penalty, etc. Statutory appeal filed by the petitioners was dismissed vide order, Annexure P-11. Both these orders are under challenge in the present writ petition.

4. Upon notice, separate written statements have been filed on behalf of respondents No.2 and 3 and respondents No.1, 4 and 5. In their reply, respondents No.2 and 3 have stated that transfer of plot upto four times is permitted, without registration, before the final payment is made. It has been submitted that the conveyance deed was executed after the payment of the full sale consideration. In their separate response, respondents No.1, 4 and 5, a stand has been taken that the Collector rate fixed by the revenue authorities at the time of registration of the sale deed was Rs.15,000/- per square yard, but the petitioners intentionally undervalued the plot and paid a lesser registration fee. On checking by an audit party, an objection was raised and proceedings were initiated under Section 47-A of the Indian Stamp Act, upon a reference made vide letter dated 20.12.2013, Annexure R-1. A notice dated 21.01.2014 was sent to the petitioners for deposit of the deficient stamp duty.

5. While placing reliance upon letter dated 05.01.2015 and instruction dated 05.11.2014, Annexures P-8 and P-9, respectively, counsel for the petitioners has argued that as a plot can be transferred upto four times before the final payment of the plot and stamp duty on conveyance deed has to be levied on the original allotment price. He submits that both these documents could not inadvertently be brought to the notice of the appellate authority, however, he submits that considering these instructions, various orders, Annexures P-10 and P-11, have been passed by the authorities and stamp duty has been waived off. Still further, it is his argument that the appellate authority has not considered his appeal on merits and has not given any reason while rejecting it. On the other hand, State counsel has placed reliance upon the Collector rate for the year 2012-2013, Annexure R-2, to assert that the conveyance deed has been undervalued and the demand for the balance amount is justified.

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

7. The effective part of the order passed by the appellate authority deserves to be noticed and is reproduced as under:-

“5. I have heard both the parties and perused all the facts on the file. It is clear from the fact of the file that the lower court had given the opportunity to the appellant to present his side. During the arguments the appellant could not produce any proof which shows that the above noted writing had been registered at Collector rate. In my view the order of the lower court is justified and there is no scope of interference. So, the appeal of the appellants is dismissed.

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*Order pronounced.**Dated 21.07.2017**Sd/**Commissioner, Ambala Division ”*

8. A perusal of the above reproduced order shows that the appellate authority has failed to record any reason whatsoever in support of the order. After noticing the arguments addressed by both the parties, appellate authority has simply endorsed the order passed by the Collector without dealing with the arguments raised by the petitioners. Appellate authority is a quasi judicial authority and it is an essential requirement that the orders passed by it are supported with reasons. The appellate authority is required to independently examine the arguments raised on behalf of the parties and decide them by assigning cogent reasons. Since this has not been done, this Court is of the view that the impugned order, Annexure P-11, cannot be sustained on this short ground.

9. For the afore-going reason, impugned order, Annexure P-11, passed by the appellate authority (Commissioner, Ambala Division, Ambala) is set aside and the matter is remitted to it to decide it afresh by passing a reasoned order after hearing the parties. Parties are at liberty to produce any additional material they deem necessary in support of their arguments. It shall also be open to the parties to raise all the arguments before the appellate authority, who will duly consider them while deciding the appeal afresh.

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10. Petition is disposed of.
11. Parties are directed to appear before the Commissioner, Ambala
Division, Ambala on 20.03.2024 at 10.00 A.M.

08.02.2024
sheetal

(SUVIR SEHGAL)
JUDGE

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