**Neutral Citation No. 2024:PHHC:058155**

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

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*CWP-5360-2017* ***(O&M)***
Date of Decision: 29.04.2024

Chetan Nanda and another

.... Petitioners

Vs

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Vipin Mahajan, Advocate for both the petitioners.

Mr. Anil Bansal, DAG, Punjab

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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 writ in the nature of certiorari for quashing notice dated 11.04.2014 and order dated 20.03.2015, Annexures P-3 and P-7, respectively, passed by respondent No.3 as well as appellate order dated 19.08.2016, Annexure P-9, passed by respondent No.2, whereby petitioners have been found to have affixed deficit stamp duty and has been asked to deposit Rs.16,20,068/-.

2. When the petition came up for preliminary hearing, this Court passed the following order on 16.03.2017:-

> *"Petitioners allege discrimination and arbitrariness in determination of the value of the plot considering it as commercial plot which has been purchased by the petitioners, vide sale deed Annexure*

> *P-2, whereas the property which is just adjacent to the plot of the petitioners sold by one Tarun Mahajan vide sale deed dated 04.07.2014 has been considering to be a residential plot. Site plan Annexure P-15 has been appended indicating the proximity of the plot of Tarun Mahajan which is considered differently for the purpose of determination of the stamp duty.*
>
> *Vide order dated 19.08.2016, Commissioner, Jalandhar Division, Jalandhar has relied upon the report of Collector observing that since the plot purchased by the petitioners is situated near a Hospital in the close vicinity of P.W.D. Rest House and in the proximity of two Medical Stores and plot of Nanda Hospital, the land of 1 kanal 7.5 marlas purchased by the petitioners, would be considered as commercial plot.*
>
> *In view of above circumstances, prima facie, it appears that the matter could be remanded to the Commissioner to re-assessing the value taking into consideration the above said circumstance.*
>
> *Notice of motion to the respondents for 01.08.2017.*
>
> *Meanwhile, recovery of alleged deficiency of the stamp duty, will remain stayed."*

3. Respondents filed the reply by way of an affidavit wherein it has been *inter alia* submitted that proceedings have been initiated under the Indian Stamp Act, 1899 against purchasers of adjoining plots.

4. During the pendency of this writ petition, a status report was filed by the respondents in October, 2023 stating that notices have been issued to the concerned parties. In a fresh status report dated

29.04.2024, which has been filed today and is taken on record, it has been submitted that the proceedings are still pending.

5. Be that as it may, respondents are not in a position to dispute that stamp duty on the adjoining plots has been charged as residential plots whereas the stamp duty has been imposed upon the petitioners by treating his property as commercial. Proceedings may have been initiated against the owners of adjoining plots, but they have not been concluded so far despite a lapse of more than six years. Consequently, this Court is left with no other option but to set aside the impugned order, Annexure P-9 and to remand the matter back to the appellate authority for fresh decision.

6. Consequently, the impugned appellate order dated 19.08.2016, Annexure P-9, is set aside. Matter is remitted to respondent No.2 with a direction to reconsider the appeal after hearing counsel for the parties and to decide it afresh by passing reasoned order.

7. Writ petition is disposed of.

8. Parties are directed to appear before respondent No.2 (Commissioner, Jalandhar Division, Jalandhar) on 10.07.2024 at 10:00 am.

9. The recovery of the alleged deficit stamp duty shall remain stayed till the appeal is decided afresh by respondent No.2 and would be subject to the final outcome of the appeal.

29.04.2024 **(SUVIR SEHGAL)**
pooja saini **JUDGE**

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|---|---|
| *Whether Speaking/Reasoned* | *Yes/No* |
| *Whether Reportable* | *Yes/No* |