

CWP-22278-2020

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(212)

CWP-22278-2020
Date of decision:- 22.04.2024

Charik Singla and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Preetwinder Singh Dhaliwal, Advocate
for the petitioners.

Mr. Amit Chaudhary, DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. By way of present writ petition filed under Article 226/227 of the Constitution of India, petitioners have approached this Court *inter-alia* for issuance of a writ in the nature of certiorari for setting aside order dated 07.10.2020, Annexure P-4, as well as order dated 04.05.2009, Annexure P-1, passed by respondents No.2 and 3, respectively.
2. Counsel for the petitioners submits that petitioners had purchased some land in District Barnala and after affixing adequate stamp duty, the sale deed was registered on 09.04.2007. He submits that without serving any notice upon the petitioners, respondent No.3 passed an ex-parte order dated 04.05.2009, Annexure P-1, whereby petitioners have been directed to deposit Rs.2,72,000/-. Counsel submits that upon coming to know of passing of the order, Annexure P-1, petitioners challenged it by filing an appeal,

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which has been rejected by the appellate authority, vide order dated 07.10.2020, Annexure P-4, on the ground that it has been filed after more than eleven years. By making a reference to the report of the process server, Annexure P-5, counsel urges that the complete address of the petitioners was not available in the record and without serving them, the petitioners were proceeded against ex-parte after effecting proclamation. He submits that the petitioners never came to know about the initiation of the proceedings under Section 47-A of the Stamp Act nor of the passing of the order, Annexure P-1. He submits that along with the appeal, they had filed an application under Section 5 of the Limitation Act, 1963, Annexure P-3. However, without adverting to the application, impugned order, Annexure P-4, has been passed.

3. Petition has been contested by the respondents by filing a reply. By making a reference to para 5 of the reply, State counsel submits that one of the petitioners had made a part deposit of the deficit amount in July, 2020 and they cannot contend that they were not aware of the proceedings.

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

5. At the outset, order passed by the appellate authority, Annexure P-4, deserves to be noticed and is reproduced as under:-

“1. This is an appeal filed under section 47-A of the Indian Stamp Act, 1899, against the order dated 04-05-2019 (sic) passed by the District Collector, Barnala in vasika number 68 dated 09-04-2007.

2. Learned counsel for the appellant was heard at pre hearing stage and found that the appeal is hopelessly time

*barred as the same has been filed after a gap of more than 11 years. The appellant has failed to explain any cogent argument to condone this delay. Thus the appeal filed has no merits and it is liable for dismissal. The same is, therefore, **dismissed being time barred.**”*

6. A perusal of the above reproduced order shows that the appellate authority has not even considered the explanation given by the petitioners in the application for condonation of delay. It appears that the appellate authority was influenced by the fact that the appeal is belated by eleven years. This Court is, therefore, of the view that the impugned appellate order cannot be sustained and the matter deserves to be remitted for decision afresh.

7. Accordingly, impugned appellate order, Annexure P-4, is set aside and matter is remitted to respondent No.2 (Divisional Commissioner, Patiala Division) to re-consider the application for condonation of delay, after hearing counsel for the parties and proceed in accordance with law. It is expected that respondent No.2 would pass a fresh order assigning reasons.

8. Writ petition is disposed of.

9. Parties are directed to appear before respondent No.2 on 20.06.2024 at 10:00 A.M. for further proceedings.

22.04.2024
Kamal

(SUVIR SEHGAL)
JUDGE

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