



CWP-21114-2023

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

(201)

CWP-21114-2023

Date of decision:- 23.10.2024

Naib Singh and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Pardeep Kumar Kapila, Advocate
for the petitioners.

Ms. Amrita Garg, AAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. On 21.09.2023, this Court passed the following order:-

“The petitioners assail order dated 16.11.2021 (Annexure P-2) vide which Additional Deputy Commissioner, Mansa while proceeding under Section 47-A of the Indian Stamp Act, 1899, held that the sale deed dated 10.8.2016 executed in favour of the petitioners had been insufficiently stamped as the petitioners were not entitled to any kind of exemption from stamp duty being blood relatives of the vendors i.e. being nephews since Class-1 heir of vendor his mother Smt. Gurnam Kaur was alive. Learned counsel for the petitioners also assail order dated 01.03.2023 (Annexure P-4) passed by the learned Commissioner, Faridkot Division, Faridkot, whereby appeal against the aforesaid order had been declined.

Learned counsel for the petitioners submits that two sale deeds were executed on the same day by two uncles of the petitioners and that while proceeding conducted under the provision of Section 47-A of the Act in respect of one sale deed executed by Nachhatar Singh was decided in favour of the petitioners and it was held that the petitioners were entitled to exemption from stamp duty i.e. vide order dated 15.9.2022 (Annexure P-5) whereas in the



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impugned order (Annexure P-3) pertaining to sale deed executed by Balvir Singh, real brother of Nachhatar Singh a different view has been taken.

Pursuant to an advance copy of the petition having been served upon the State, Mr. Inderpreet Singh Kang, AAG, Punjab has put in appearance and has pointed out that although both the sale deeds were executed on the same day, but while in one sale deed it had been represented by the petitioners that the mother of the vendors was no more i.e. Smt. Gurnam Kaur but in the other sale deed it had been stated that she was still alive and that it was under these circumstances contradictory orders came to be passed.

Learned counsel for the petitioners has however, submitted that it was on account of a mistake on part of the counsel that contradictory statements came to be made and that as a matter of fact the mother of the vendors i.e. Smt. Gurnam Kaur had actually expired on 13.11.1990 i.e. much before execution of sale deed dated 10.8.2016.

Notice of motion for 08.02.2024.

Meanwhile, recovery qua the petitioners shall remain stayed.

State to conduct verification as regards the date of death of aforesaid Smt. Gurnam Kaur and to submit its report along with reply on the next date of hearing.”

2. Pursuant to the above order, reply has been filed by the respondents, wherein it has been submitted that the death of Gurnam Kaur has been verified and it has been found that she had expired on 13.11.1990. The sole submission made by the State counsel is since neither the factum of death, nor the death certificate was brought on the record by the petitioners, this resulted in the passing of the impugned order.
3. To counter the State counsel, counsel for the petitioners submits that this development could not be brought to the notice of the authorities as the counsel representing the petitioners, even though he was informed about the death, did not place the documents on record before the authorities.



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4. Be that as it may, since the respondents have not disputed that in a similar matter, by order dated 15.09.2022, Annexure P-5, the Collector (ADC), Mansa had withdrawn the notices issued under Section 47-A of the Indian Stamp Act, 1899 to the petitioners, this Court is of the view that the impugned orders cannot be sustained.
5. Accordingly, both the impugned orders, Annexures P-2 and P-4, are set aside. Matter is remitted to the Collector, Mansa to re-determine the liability, if any, of the petitioners for payment of stamp duty. Liberty is granted to the petitioners to produce all the relevant documents before the authority concerned.
6. Writ petition is disposed of.
7. Parties are directed to appear before the Collector, Mansa on 12.12.2024, at 11:00 A.M., for further proceedings in accordance with law.

(SUVIR SEHGAL)
JUDGE

23.10.2024
Kamal

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