IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(209)

CWP-26673-2022
Date of decision:- 07.11.2024

RAJESH KUMAR ... PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. P.P.P.Thethi, Advocate for the petitioner.

Ms. Amrita Garg, AAG, Punjab.

Mr. A.P.Bhandari, Advocate for the proforma respondent No.4.

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SUVIR SEHGAL, J. (*ORAL*)

1. Aggrieved by orders dated 30.08.2019 and 10.08.2022, Annexures P-6 and P-7, respectively, passed by official respondents, whereby petitioner has been fastened with a liability to deposit deficit stamp duty and other charges, petitioner has approached this Court by way of instant writ petition filed under Articles 226/227 of the Constitution of India *inter-alia* for issuance of a writ in the nature of certiorari for quashing the said orders.

2. In nutshell, case of the petitioner is that he had purchased agricultural land measuring 1 kanal 13 marlas vide registered sale deed dated 27.06.2012, Annexure P-1, from respondent No.4 and deposited the applicable stamp duty. He received a notice dated 12.10.2016, Annexure P-4, from respondent No.3 in prescribed Form 1-A under Rule 4 (1) of the Punjab Stamp (Dealing of Under-valued Instruments) Rules, 1983 calling

upon him to deposit the deficient stamp duty. Petitioner appeared before the Collector, Bhatinda and filed his reply. By impugned order, Annexure P-6, respondent No.3 assuming the property to be commercial, ordered payment of Rs.4,62,788/- as balance stamp duty along with interest @ 12% per annum. This order was upheld in appeal, preferred by the petitioner, which was rejected by respondent No.2, vide impugned order, Annexure P-7.

3. Upon notice, writ petition has been contested by official respondents No.1 to 3 by filing a reply. Respondent No.4, who is the vendor, has filed a separate reply.

4. Counsel for the petitioner has urged that the sale deed, Annexure P-1, was registered on 27.06.2012, whereas proceeding under Section 47-A of the Indian Stamp Act, 1899 were initiated vide notice dated 12.10.2016, i.e., after a period of more than four years. It is his argument that as the limitation for initiating proceedings under Section 47-A (3) of the Act is three years from the date of registration of the sale deed, the same is barred by time. Another argument raised by him is that the proceedings have been commenced on the basis of an audit report, which is not sacrosanct.

5. On the other hand, State counsel has argued that deficiency in stamp duty was detected by the Deputy Collector (Finance and Account), Internal Enquiry Institute (R), Bathinda during internal audit and the value of the land, which was commercial, was Rs.11,000/- per square yard. She submits that the impugned orders were passed after receiving a status report from Tehsildar, Bathinda, who inspected the spot and submitted a report. It is her argument that the proceedings have been initiated under Section 47-A

(1), which does not prescribe any limitation. Reliance has been placed by her upon the judgment of the Supreme Court in ***State of Punjab and others Versus Mahajan Sabha, Gurdaspur and others, (1996) 1 SCC 538***.

6. I have heard counsel for the parties and examined the documents placed on the record, with their able assistance.

7. Interpreting Section 47-A (3) of the Indian Stamp Act, a Division Bench of this Court in ***Raghbir Versus State of Haryana, 2003 (4) RCR (Civil) 861*** has held as under:-

> *"8...Under Sub-Section (3), the Collector can take action, either suo motu or on receipt of reference from Inspector General of Registration or the Registrar of a District in whose jurisdiction the property or any portion thereof, which is subject matter of instrument, is situated. For taking action under Sub-Section (3), limitation of three years from the date of registration of the instrument has been prescribed. In other words, no action can be taken by the Collector under Sub Section (3) after expiry of three years counted from the date of registration of the instrument. If that be the position, we have no hesitation to hold that the notice issued by respondent No.3 after seven years of the registration of the sale deed is clearly barred by time and is liable to be quashed."*

8. This view has been followed by this Court in ***Jitender Mohan Singh and another Versus Divisional Commissioner, Rohtak and others, 2016 (3) RCR (Civil) 144***; ***Satpal and others Versus State of Punjab and others 2022 (4) PLR 580***; ***Jyoti Singla and others Versus State of Punjab and others, 2022 (3) PLR 723***; ***Shilpa Garg and others Versus State of Haryana and others, 2022 (4) RCR (Civil) 673*** and ***Amandeep Singh and***

others Versus State of Punjab and others, Law Finder Doc. ID # 1670569.

9. Adverting to the facts of this case, it may be noticed that upon registration of the sale deed on 27.06.2012, it was returned to the petitioner and the instrument was never impounded by the Sub-Registrar, nor did he make any reference to the Collector. The judgment in ***Mahajan Sabha's case (supra)*** would, therefore, not be applicable to the facts of the present case. On the basis of an internal audit report, with which the petitioner was never associated, the Sub-Registrar sent a report to the Collector on 07.09.2016 for initiating proceedings under Section 47-A of the Indian Stamp Act. A notice was thereafter issued to the petitioner, which is clearly beyond the period of three years as specified under Sub-Section (3) of Section 47-A of the Act. As the very initiation of the proceedings is beyond the prescribed period, the consequential orders passed by the authorities cannot be sustained.

10. For the foregoing reasons, writ petition is allowed. Impugned orders dated 30.08.2019 and 10.08.2022, Annexures P-6 and P-7, respectively, are quashed.

(SUVIR SEHGAL)
JUDGE

07.11.2024
Kamal

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