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

CR-5996-2022(O&M)
Date of decision : 06.05.2024

Abdul Qudoos **...Petitioner**

Vs.

Davinder Kumar and another **...Respondents**

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Satish Chaudhary, Advocate
for the petitioner.

None for the respondents.

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ANIL KSHETARPAL, J. (Oral)

1. Learned counsel representing the petitioner contends that the trial court has erred in directing the petitioner to pay the amount of penalty equivalent to 10 times of the deficient stamp duty. He submits that the trial court has erred in applying the judgment passed by the Hon'ble Supreme Court in '***Trustees of H.C. Dhanda Trust vs. State of Madhya Pradesh and others***' **2020 AIR (SC) 4349.**

2. This Court has considered the submissions made by the learned counsel for the parties.

3. The plaintiff filed the suit for permanent injunction restraining the defendants from interfering in his peaceful possession. The entire case of the plaintiff is based upon an agreement to sell dated 19.10.2015. In the aforesaid agreement, the defendants acknowledges the receipt of Rs. 25,00,000/- out of total sale consideration of Rs.32,00,000/-. The agreement was scribed on stamp

paper of worth Rs.100/-. The court below has found that the plaintiff is liable to pay stamp duty in terms of Entry 5(CC) amended by the Indian Stamp (Punjab Amendment) Act, 2005. The Court has found that the proper deficient stamp duty is Rs. 1,49,900/-. Further directions have been issued to the plaintiff to make good the deficient stamp duty alongwith penalty of Rs.1,49,900/-.

4. In "***Amit Kumar Vs. Neha Bhatia and others***", Civil Revision No. 6050 of 2019, decided on 03.08.2022, the Court has held that in the facts and circumstances of the case, the amount of penalty should be equal to the amount of deficient stamp duty.

5. In ***H.C. Dhanda's*** case, the Supreme Court has held that the maximum penalty payable on deficient stamp duty is to the extent of 10 times of the deficiency in the stamp duty and the registration lies with the Court or the authority to impose penalty looking at the facts and circumstances of the case. In this case, there is no material to show that the plaintiff intentionally tried to evade the payment of stamp duty or tried to cause loss to the revenue. Moreover, by amendment in the Stamp Act, the stage at which the stamp duty is payable has been advanced to the date of agreement to sell. Otherwise, the amount of stamp duty remains the same. If the stamp duty is not paid at the time of the agreement to sell, the same shall be payable at the time of registration of the sale deed. Moreover, if a stamp duty has been paid at the time of execution of the agreement to sell, the same will be adjusted against the total stamp duty payable at the time of registration. Hence, at this stage, there is no material to come to the conclusion that there was attempt to cause loss to the revenue.

6. Hence, the order passed by the trial Court is modified. The plaintiff shall be liable to make good the deficiency of the stamp duty alongwith the amount of penalty, which is equivalent to the deficient stamp duty.

7. Disposed of.

8. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

06.05.2024
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No