207

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-29415-2022
Date of decision:-09.07.2024

Sunita Rani

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON’BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.Aminder Singh, Advocate for the petitioner.

Ms.Amrita Garg, AAG, Punjab.

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SUVIR SEHGAL, J.(ORAL)

1. By way of present writ petition filed under Articles 226/227 of the Constitution of India, petitioner has approached this Court for issuance of a writ in the nature of certiorari for quashing of order dated 30.06.2020, Annexure P1, passed by the Collector – cum – Additional Deputy Commissioner, District Sangrur (hereinafter referred to as “the Collector”) and order dated 06.10.2021, Annexure P3, passed by the Divisional Commissioner, Patiala, whereby petitioner has been fastened with a recovery of Rs.3,58,020/- along with interest and penal interest on account of deficit stamp duty.

2. Briefly stated, facts leading to the filing of the petition are that the petitioner had purchased land measuring 360 square yards and the sale was registered on 21.06.2016. During internal audit, it transpired that the petitioner had registered the sale deed as per Code E-

7 @ Rs.2,450/- per square yard, whereas the land was commercial and was required to be registered as per Code E-8 @ Rs.13,500/- per square yard. It transpired that the petitioner had paid deficit stamp duty. Collector issued notice to the petitioner, who appeared and filed her reply and order, Annexure P1 was passed by the Collector. Petitioner remained unsuccessful in the appeal filed before the Divisional Commissioner, which was dismissed by order, Annexure P3. Both the orders are under challenge in this writ petition.

3. Upon notice being issued by this Court, writ petition has been contested by the respondents by filing a reply.

4. Counsel for the petitioner has argued that the proceedings initiated by the Collector are barred by limitation as laid down in Section 47-A (3) of the Indian Stamp Act and no notice for recovery of the deficit stamp duty could be issued after expiry of three years. It is his argument that the proceedings could not have been initiated on the basis of report of audit party, which cannot be said to be sacrosanct.

5. *Per contra*, learned State counsel by referring to the response filed by the respondents has argued that after the audit report was received, the Collector vide letter dated 09.12.2019 called for a fresh report from the Sub Divisional Magistrate, who inspected the spot and sent communication dated 16.03.2020, Annexure R2. She submits that as per the inspection report, the land mentioned in the sale deed is situated on the highway connecting Sangrur with Patiala and is adjacent to the New Bus-Stand, Bhawanigarh. She submits that there are shops adjacent to the land, which is commercial. She has supported the

impugned orders on the basis of the spot inspection.

6. I have considered the rival submissions of counsel for the parties as well as examined the record of the petition with their able assistance.

7. The matter in issue is no longer *res integra* as has been settled in a catena of judgments. 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 Versus Divisional Commissioner, Rohtak, 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 Versus State of Punjab, 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 21.06.2016, it was returned to the petitioner and the document was never impounded by the Sub-Registrar, nor did he make any reference to the Collector. On the basis of an internal audit report, with which the petitioner was never associated, the Sub-Registrar sent a reference to the Collector on 22.08.2019 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 prescribed 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 30.06.2020, Annexure P1, passed by the Collector and 06.10.2021, Annexure P3, passed by the Divisional Commissioner, Patiala, are quashed. No costs.

(SUVIR SEHGAL)
JUDGE

09.07.2024
Brij

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No