

CWP-28202-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-28202-2023

Date of decision:-06.02.2024

Rubal Goyal and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.Yagsimant Attri, Advocate
for the petitioners.

Mr.Aayush Sarna, AAG, Punjab.

SUVIR SEHGAL, J.(ORAL)

1. By way of present writ petition filed under Articles 226/227 of the Constitution of India, petitioners have approached this Court for issuance of a writ in the nature of certiorari for quashing of order dated 31.05.2022, Annexure P2, passed by respondent No.4 as well as Appellate Order dated 09.11.2022, Annexure P4, passed by respondent No.2.

2. Counsel for the petitioners submits that the petitioners had purchased the property in question in an open auction from Punjab National Bank and sale deed was executed in their favour on 03.01.2018

on the basis of valuation report, Annexure P1. He submits that on the basis of an audit objection, Sub-Registrar sent the matter to respondent No.4 to initiate proceedings under Section 47-A of the Indian Stamp Act. Counsel submits that the petitioners were proceeded against ex-parte and by order Annexure P2, they were directed to deposit Rs.20,280/- as deficit stamp duty and other charges along with interest @ 12% per annum. He submits that the petitioners never came to know about the order and received an intimation regarding the order on 26.07.2022. He submits that the petitioners applied for a certified copy of the order on 04.08.2022, which was delivered to them on 17.08.2022 and the appeal was instituted before respondent No.2 on 30.08.2022, which has been dismissed vide the impugned order, Annexure P4 as being barred by time. It is his argument that the Appellate Court has failed to consider the circumstances and the situation in which delay has occurred.

3. Issue notice of the writ petition to the official respondents No.1 to 4.

4. On asking of the Court, Mr.Aayush Sarna, AAG, Punjab, accepts notice on behalf of the respondents No.1 to 4.

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

6. Perusal of the order, Annexure P4 shows that respondent No.2 failed to appreciate the facts as have been given by the counsel and narrated in the preceding paragraph. Appellate Authority has failed to apply its mind in determining as to whether the delay of a few days in the filing of the appeal has been satisfactorily explained. In view

thereof, this Court is of the view that appellate order, Annexure P4 deserves to be set aside and the matter deserves to be sent back for deciding afresh.

7. For the reasons aforesaid, order dated 09.11.2022, Annexure P4 passed by respondent No.2 is set aside. Matter is remitted to the Appellate Authority with a direction to re-hear the application for condonation of delay and pass fresh order thereon, after hearing the parties.

8. Petition is disposed of.

9. Parties are directed to appear before respondent No.2 – Commissioner, Faridkot Division, District Faridkot on 20.03.2024.

(SUVIR SEHGAL)
JUDGE

06.02.2024
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No