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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-24934-2023 (O&M)
Date of Decision:04.12.2025

Pawan Kumar Sharma and another

......Petitioners

Versus

Commissioner Patiala Division Patiala and another

......Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Anupreet S. Sidhu, Advocate for the petitioners.

Ms. Shruti, AAG, Punjab.

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JASGURPREET SINGH PURI J.(Oral)

1. The present writ petition has been filed under Articles 226/227 of Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned orders i.e. order dated 04.07.2023 (Annexure P-5) passed by respondent No.1 and order dated 23.07.2021 (Annexure P-2) passed by respondent No.2.

2. Learned counsel appearing on behalf of the petitioners submitted that the petitioners are aggrieved by the order dated 23.07.2021 passed by learned Additional Deputy Commissioner (Collector), Patiala, (Annexure P-2) and also the appellate order dated 04.07.2023 passed by learned Divisional Commissioner, Patiala Division, Patiala, (Annexure P-5), whereby the petitioners have been fastened with a liability of approximately Rs.24,000/- for paying the deficient stamp duty.

3.   While giving brief facts of the present case, learned counsel submitted that there is a plot of the area of 202.5 sq. yards, situated at PRTC Workshop, Nabha Road, Patiala, which was auctioned by the development authority in an open auction to one Dr. Sandeep Kumar Sharma and Dr. Shruti Sharma for an amount of Rs.38,44,699/- in the year 2012. However, the sale deed regarding the same was executed in their favour on 17.11.2017 after a gap of five years. He submitted that after the aforesaid sale deed was registered in favour of the aforesaid persons, the petitioners purchased the aforesaid property from the aforesaid two persons on 08.12.2017 for an amount of Rs.35,00,000/-. He submitted that in this manner, there was a difference of approximately rupees 3.5 lakhs between the auction price fixed in the year 2012, when the aforesaid persons were allotted the plot and the price at which the petitioners subsequently purchased the property. He further submitted that a perusal of the impugned orders passed by the learned Additional Deputy Commissioner (Collector), Patiala (Annexure P-2) and learned Divisional Commissioner, Patiala Division, Patiala, (Annexure P-5) reflect that the reasoning assigned by both the authorities is wholly perverse, misconceived and contrary to the record. While referring to the aforesaid orders, he submitted that one of the reasonings which has been given by the learned Additional Deputy Commissioner (Collector), Patiala, was that since the petitioners purchased the plot just after 20 days, there was no scope left for a change in the price. However, this was factually incorrect because a perusal of both the orders would show that the aforesaid two persons were allotted the plot in the year 2012 at the aforesaid rate of Rs.38,44,699/-. Although the formal sale deed was

executed in the year 2017, it is incorrect to say that the petitioners purchased the plot just after 20 days. Instead, they purchased the plot after more than five years and during those years, there was recession in the market and the prices of the plot had reduced. Even so, the petitioners got the sale deed executed at a rate much more than the collector rate. While referring to the aforesaid orders, he further submitted that it has been incorporated in the order itself that the collector rate was of Rs.2,624/- per sq. yard and the petitioners purchased the property at Rs.17,184/- per sq. yard, which was much higher than the collector rate. Both the authorities had wrongly equated the petitioners with the aforesaid auction which was held in 2012 and the gap was of more than five years. He also submitted that both the aforesaid orders (Annexure P-2) and (Annexure P-5) are therefore perverse and against the record and are consequently liable to be set aside.

4. To further substantiate his arguments, learned counsel submitted that large number of plots allotted by the aforesaid development authority were also surrendered subsequently due to the recession in the market. He further submitted that, be that as it may, the findings recorded by both the authorities are contrary to the record, as the difference was not of 20 days but of more than five years. Therefore, the impugned orders are liable to be set aside.

5. On the other hand, learned State counsel submitted that since the petitioners had paid the stamp duty on a price which was lower than the aforesaid auction rate, the auction price was required to be considered for the purpose of determining the correct stamp duty and in this way, the present petition is liable to be dismissed.

6. At this stage, the learned counsel for the petitioners further submitted that at the time of assessment made under Section 47A of the Indian Stamp Act, 1899, no independent site inspection was carried out and no fresh assessment was made, and there is nothing in the reply to show that any independent assessment was made.

7. I have heard the learned counsels for the parties.

8. The issue involved in the present case was pertaining to deficient stamp duty which was made chargeable from the petitioners in the proceedings conducted under Section 47-A of the Indian Stamp Act, 1899. The dates so stated by learned counsel for the petitioners are not in dispute. Two persons, namely Dr.Sandeep Sharma and Dr. Shruti Sharma, bought a plot in an open auction from the development authority in the year 2012, which is clearly reflected from the impugned order passed by the appellate authority. It was thereafter, after a gap of more than five years, that the sale deed was executed in their favour on 17.11.2017. After a further gap of about 20 days, the petitioners purchased the same plot on 08.12.2017. The collector rate as per the order passed by the appellate authority was Rs.2624/-per sq. yard whereas the petitioners bought the property at Rs.17,184/- per sq. yard and in this way clearly the petitioners bought the property at much higher rate which is not in dispute. The only issue on the basis of which the petitioners have been fastened with the liability of stamp duty was that, since the petitioners had bought the property after a gap of 20 days, for which there could be no change in the market value, they should have paid stamp duty on the same amount, i.e. Rs.38,44,699/-, which was allotted to the aforesaid two persons. This finding of both authorities is incorrect in view of the fact that the

aforesaid persons were allotted the plot at Rs. 38,44,699/- in the year 2012 and the sale deed was executed in their favour only in the year 2017, therefore, the gap was more than five years and not 20 days. The market during this period was fluctuating and the petitioners had paid stamp duty at a rate much higher than the collector rate.

9. In view of the aforesaid facts and circumstances, the present petition is allowed. Both the impugned orders suffer from clear infirmity and illegality and are, therefore, hereby set aside.

(JASGURPREET SINGH PURI)
JUDGE

04.12.2025
shweta

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