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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

***

CWP-5359-2018 (O&M)
Date of Decision: 18.04.2026

Ishwanti .... Petitioner

Versus

State of Haryana and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Dheerja, Legal Aid Counsel,
for the petitioner.

Mr. Chirag Wadhwa, DAG, Haryana.

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JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Article 226 and 227 of the Constitution of India praying for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 12.01.2018 (Annexure P-4) passed by respondent No.2 as well as the order dated 26.10.2016 (Annexure P-2) passed by respondent No.3 which were passed against the provisions of Section 47-A of the Indian Stamp Act, 1899.

2. Ms. Dheeraja, learned Legal Aid Counsel for the petitioner, while referring to the facts of the present case, submitted that a sale deed was registered on 04.02.2011 and the requisite stamp duty was paid. However, vide Annexure P-1 dated 09.08.2016, the Sub-Registrar, Pataudi wrote a letter to the Sub Divisional Officer (Civil), Pataudi (Gurgaon) for taking action under Section 47-A of the Indian Stamp Act, 1899 for recovery of deficient stamp duty to the tune of ₹2,35,734/- from the petitioner. Pursuant to the aforesaid letter from the Sub-Registrar, Pataudi, the Sub Divisional Officer (Civil)-cum-Collector, Pataudi passed the impugned order dated 26.10.2016 (Annexure P-

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2), directing recovery of ₹2,35,734/- from the petitioner as deficient stamp duty under Section 47-A of the Indian Stamp Act, 1899. Thereafter, the petitioner preferred a statutory appeal before learned Commissioner, Gurugram Mandal, Gurugram. The Commissioner vide order dated 12.01.2018 (Annexure P-4), dismissed the appeal by passing a non-speaking and cryptic order without considering the grounds taken by the petitioner in the appeal especially pertaining to the issue of limitation even after noting the same in the impugned order (Annexure P-4).

3. Learned Legal Aid Counsel further submitted that under the provisions of Section 47-A of the Indian Stamp Act, 1899 as applicable to the State of Haryana under sub-rule (3), action can be taken by the Collector only within three years from the date of registration of the instrument. In the present case, however, even the initiation of action by the Sub-Registrar occurred after approximately 5½ years, as the sale deed was registered on 04.02.2011, and the communication was sent by the Sub-Registrar, Pataudi to the Sub-Divisional Officer (Civil), Pataudi (Gurgaon) vide Annexure P-1 on 09.08.2016. Thereafter, the Sub-Divisional Officer (Civil)-cum-Collector, Pataudi, took cognizance and passed the impugned order, directing recovery of the deficient stamp duty from the petitioner. She further submitted that the aforesaid order, directing recovery of deficient stamp duty from the petitioner, violates Section 47-A(3) of the Indian Stamp Act, 1899, as it was initiated after 5½ years, which is beyond the prescribed three-year period under sub-rule (3) of the Indian Stamp Act. Consequently, the order passed by the Sub-Divisional Officer (Civil)-cum-Collector, Pataudi, is liable to be set aside.

4. Learned Legal Aid Counsel further referred to the order passed by

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the Commissioner i.e. the Appellate Authority whereby the Commissioner even after noting the contention of the petitioner that there was a delay in initiating the proceedings under Section 47-A of the Indian Stamp Act, 1899, did not consider the aforesaid aspect at all and by way of a cryptic order had dismissed the appeal. Therefore, the aforesaid order passed by the Appellate Authority is also liable to be set aside.

5. Learned Legal Aid Counsel has referred to a judgment passed by a Co-ordinate Bench of this Court in "***Kanwaljit Singh Vs. Divisional Commissioner and others***" ***2023(2) RCR (Civil) 2*** and has also referred to another judgment of a Co-ordinate Bench of this Court passed in ***CWP-21179-2018*** titled as "***Prem Wati and another Vs. State of Haryana and others***", **decided on 07.07.2022** to contend that when proceedings under Section 47-A of the Indian Stamp Act, 1899, are initiated beyond the period of three years, they are hit by limitation. Consequently, the order by which the deficient stamp duty has been ascertained or directed to be recovered is liable to be set aside. She has, therefore, prayed that the present petition be allowed and both the impugned orders (Annexures P-2 & P-4) be set aside.

6. On the other hand, Mr. Chirag Wadhwa, learned DAG, Haryana could not controvert the aforesaid factual position regarding the initiation of proceedings after a period of three years because the sale deed was registered on 04.02.2011 and for the first time, the Sub-Registrar, Pataudi had issued a letter vide Annexure P-1 on 09.08.2016. He further submitted that the aforesaid factual position has not been controverted in the reply filed by the respondent.

7. I have heard learned counsel for the parties.

8. The factual position with regard to the initiation of proceedings

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under Section 47-A of the Indian Stamp Act, 1899 particularly concerning the issue of limitation, is not in dispute. The sale deed was registered on 04.02.2011 and the proceedings under Section 47-A of the Indian Stamp Act, 1899 were initiated after a period of approximately 5½ years which is an admitted position. The unamended Section 47-A of the Indian Stamp Act, 1899 (as applicable to the State of Haryana at the relevant time), is reproduced below:

> *"47-A. Instruments under-valued how to be dealt with. -*
> *(1) If the Registering Officer appointed under the Registration Act, 1908, while registering any instrument transferring any property has reason to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon.*
> *(2) On receipt of reference under Sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, determine the value or consideration and the duty as aforesaid, and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty.*
> *(3) The Collector may suo motu, or on receipt of reference from the Inspector-General of Registration or the Registrar of a district in whose jurisdiction the property or any portion thereof which is the subject matter of the instrument is situate, appointed under the Registration Act, 1908, shall, within three years from the date of registration of any instrument, not already referred to him under Sub-section (1), call for and*

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examine the instrument for the purpose of satisfying himself as to the correctness of its value or consideration, as the case may be, and the duty payable thereon and if after such examination, he has reasons to believe that the value or consideration has not been truly set forth in the instrument, he may determine the value or consideration and the duty as aforesaid in accordance with the procedure provided for in Sub-section (2) and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty:

Provided that the Collector shall, within a period of two years from the date of the commencement of the Indian Stamp (Haryana Amendment) Act, 1973, also be competent to act as aforesaid in respect of the instruments registered on or after the first day of November, 1966 and before the first day of October, 1970.

(4) Any person aggrieved by an order of the Collector under Sub- section (2) or Sub-section (3) may, within thirty days from the date of the order, prefer an appeal before the Commissioner of the Division and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules made under this Act."

9. On the facts of the present case, which remain undisputed, it is clear that the proceedings under Section 47-A of the Indian Stamp Act, 1899, were initiated after a period of three years. In the present case, there is no justification for the State to initiate the proceedings after three years. Therefore, the present petition deserves to be allowed. The reference made to the aforesaid judgments passed by the Co-ordinate Benches of this Court, as referred to by the learned Legal Aid Counsel for the petitioner, is well placed. Rather, the present petition is squarely covered by the aforesaid

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judgments.

10. Consequently, the present petition is allowed. Both the impugned orders dated 26.10.2016 and 12.01.2018 (Annexure P-2 & P-4) are hereby set aside.

18.04.2026 **(JASGURPREET SINGH PURI)**

Bhumika **JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No

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