(2010) 03 P&H CK 0053

In the Punjab And Haryana At Chandigarh

Iqbal Kaur APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 04-03-2010

Acts Referred:
Stamp Act, 1899 — Section 47A

Citation : AIR 2010 P&H 130

Hon'ble Judges : Alok Singh, J;A.K. Goel, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Alok Singh, J.—Present appeal has been filed assailing the judgement dated 5.5.2009 passed by learned single Judge in CWP No. 5644 of 2009 remitting the matter to the Collector, Jalandhar for a fresh decision in accordance with law to determine the market value of the subject land on the date of registration of the sale deed i.e. 5.11.2008, and accordingly, to fix the petitioner''s liability pertaining to the additional stamp duty.

2. The short question involved in this appeal is as to whether stamp duty is payable on the date of execution/registration of the sale deed as per the market value of the land as fixed by the Collector for the area or shall be payable on the basis of sale consideration fixed in the agreement and in decree of specific performance passed by civil Court?

3. Brief facts of the present case are that on 5.5.1970, an agreement to sell was executed for a sum of Rs. 80,000/- for the land described in the aforesaid agreement. The agreement was renewed on 20.11.1995. However, when the vender failed to perform his part of the agreement by executing sale deed in favour of the petitioner, the petitioner filed a suit for specific performance in the civil Court at Jalandhar, which was decreed on 3.12.2001. For the execution of the decree passed by the civil Court dated 3.12.2001, sale deed was registered on 5.11.2008. The Collector exercising the powers u/s 47-A of the Indian Stamp

Act determined the market value of the property subject-matter of the sale deed at the time of registration of the instrument. Order of the Collector was confirmed by the Commissioner vide order dated 28.1.2009.

4. Writ petition was filed assailing both the orders mentioned above passed by the Collector as well as the Commissioner. Writ petition was dismissed by the impugned order.

5. Learned Counsel for the appellant vehemently argued that subject-matter of the sale deed was agreed to be purchased vide agreement dated 5.5.1970 for Rs. 80,000/-. Since the civil Court has also passed decree in favour of the appellant to get the sale deed executed for Rs. 80,000/- and the sale deed was executed pursuant to the decree of the civil Court, hence stamp duty cannot be charged on the prevalent market value, rather stamp duty can be charged only on the consideration shown in the sale deed.

6. Undisputedly, stamp duty is payable at the time of submission of the sale deed for registration. Sale deed was produced for registration on 5.11.2008. In our view, stamp duty on the market value as on 5.11.2008 is payable. Agreement to sell has no relevance in the matter of payment of stamp duty. If date of agreement to sell is taken the basis for the payment of stamp duty then stamp duty would be payable on the rates prevalent in 1970 i.e. the date of agreement. In any case, this proposition cannot be accepted.

7. In a matter of decree of specific performance, the civil Court only enforces the agreement to sell which was executed between the parties. The civil Court has not directed the Collector to charge stamp duty as per the consideration shown in the agreement. Undisputedly, neither the registering authority nor the Collector was party before, the civil Court. No question of payment of stamp duty was raised before the civil Court nor could be raised.

8. In view of the above, we find no merit in the appeal. The appeal is devoid of merit and hence is dismissed.