(2008) 07 P&H CK 0118

In the Punjab And Haryana At Chandigarh

Joginder Singh APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 30-07-2008

Acts Referred:
Stamp Act, 1899 — Section 47

Citation : (2009) 153 PLR 3 : (2009) 3 RCR(Civil) 276

Hon'ble Judges : Satish Kumar Mittal, J;Augustine George Masih, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—In this writ petition, the petitioner has prayed for quashing the order dated 6.10.2005 whereby the Collector, Sangrur has held that the mortgage deed dated 12.12.2003 executed by the petitioner in favour of the respondent bank was wrongly got registered by taking exemption from stamp duty under the Notification dated 21st June, 2001 issued by the Punjab Government, and ordered that the petitioner is liable to pay a sum of Rs.30,000/- as stamp duty and Rs. 10,000/- registration fee; and the order dated 29.11.2006 whereby the appeal filed by the petitioner against the aforesaid order before the Commissioner has been dismissed and the order of the Collector has been affirmed.

2. The sole case of the petitioner is that the petitioner is an agriculturist and is also having a poultry farm. He had taken loan from the respondent bank for meeting the expenditure of poultry farm and reclamation of land. To secure the loan amount, he executed a mortgage deed of his land in favour of the respondent bank which was got registered on 12.12.2003 in the office of Sub Registrar, Sangrur, without payment of any stamp duty in view of the Punjab Government''s Notification dated 21st June, 2001, wherein it has been provided that no registration fee shall be chargeable on any instrument executed by any person for securing the loan from the bank to meet the expenditure for any agricultural purpose or purposes allied to it, including machinery and building

which is not used for commercial purposes. A list of the agricultural purposes has been given in the said Notification. The petitioner relied upon item Nos. 18, i.e. Poultry and 27, i.e., leveling and reclamation of land. It is the case of the petitioner that taking into consideration the said Notification, Sub Registrar did not charge any stamp duty and registration fee from the petitioner. Subsequently, on the basis of auditing of accounts conducted by the Chief Stamp Auditor, Punjab, a reference was made to the Collector u/s 47 of the Indian Stamp Act for determination of the market value and the proper stamp duty payable on the said instrument.

3. The Collector after providing an opportunity of hearing to the petitioner and considering the purpose for which the loan was taken, came to the conclusion that the aforesaid mortgage deed was wrongly got registered by taking exemption from stamp duty and registration fees under the aforesaid Notification because as per the mortgage deed the loan was taken for construction and development of a farm house which does not come in the exemption from stamp duty under the aforesaid Notification, and ordered for recovery of Rs.30,000/- as stamp duty and Rs. 10,000/- registration fee from the petitioner. The said decision has been affirmed in appeal. 4. We have heard the counsel for the parties and also gone through the mortgage deed, which has been placed on record by the petitioner as Annexure P-4. No doubt, the stamp duty is exempted on the agricultural purposes as defined in the Notification dated 21st June, 2001 issued by the Punjab Government. In the mortgage deed, which is of the value of Rs. 15.00 lacs, it has been specifically stated that the petitioner has taken loan for leveling the land and for development of the farm house. There is no mention in this agreement that the loan was taken for poultry purpose or poultry feed. Undisputedly, the purpose for which the loan has been taken, i.e., farm house, does not come under the exemption from stamp duty as provided in the aforesaid Notification. In our opinion, keeping in view the aforesaid purpose of taking the loan in the mortgage agreement, com the authorities have rightly come to the conclusion that the petitioner had taken loan not for any agricultural purposes or purpose allied to it. The main purpose for taking of the loan is for development of a farm house. The loan for such purpose cannot be said for agricultural purposes. Therefore, we do not find any illegality or infirmity in the impugned orders and no ground for interference in the writ jurisdiction is made out.

4. Dismissed.

Sd/- Augustine George Masih, J.

