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(2008) 11 P&H CK 0058

In the Punjab And Haryana At Chandigarh

K.S. Jhamb APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 12-11-2008

Acts Referred:
Stamp Act, 1899 — Article 23 Schedule 1, 47A

Citation : AIR 2009 P&H 89 : (2009) 154 PLR 576 : (2009) 2 RCR(Civil) 341

Hon'ble Judges : Nawab Singh, J;Hemant Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—The challenge In the present petition is to the order dated 27.09.2005 (Annexure P-7) passed by the Collector, Rupnagar and order dated 14.12.2005 (Annexure P-9) passed by the Commissioner, Patlala Division, Patiala, in the proceedings u/s 47-A of the Indian Stamp Act, 1899 (hereinafter referred to as ''the Act'').

2. The petitioner has purchased a plot in Mohall, measuring 400 sq. yards from one Tara Singh allotted on 23.2.1987. The plot was allotted to the petitioner on payment of transfer fee vide allotment letter dated 26.4.1989. The petitioner sought execution of the Conveyance Deed on 26.02.1999. The petitioner submitted document of sale along with stamp duty of Rs. 3250/- on the sale amount of Rs. -51O0O/-. But the Estate Officer, Punjab Urban Development Authority (for short ''PUDA''), Mohali executed the said Conveyance Deed only on 17.03.2005.

3. The grievance of the petitioner is that the stamp duty is payable on the Conveyance Deed as per the price mentioned in the letter of allotment or at best when the petitioner submitted Conveyance Deed-with PUDA in the year 1999. But consequences of the delay In execution of the Conveyance Deed cannot be passed to the petitioner.

4. It is also argued that under the Article 23, Schedule 1, appended with the Act,

stamp duty is chargeable on sale consideration mentioned, in the sale deed and the Registrar has no/power to determine the market value of the property sold, in order to assess the chargeability of the stamp duty on the same. Reliance is placed upon a Single Bench Judgment of this Court reported in Siri Krishan Jindal Vs. Registrar (Deputy Commissioner), District Patiala and Others, . It is contended that Section 47-A was inserted consequence to the judgment of this Court in Sh. Krishan Jindal''s case (supra). However, by virtue of amendment in Sub-section 1 of Section 47-A of the Act vide Act No. 14 of 2001, the position as it existed prior to insertion of Section 47-A (1) vide Act No. 21 of 1982, has revived. It is contended that the stamp duty is payable as'' per the sale consideration mentioned in instrument of sale.

5. It is further argued that Section 47-A(1) as inserted vide Act No. 14 of 2001 deals with an instrument where duty is chargeable on the market vlaue. Therefore, the judgment of this Court in Sukhjit Singh Cheema v. Punjab Urban Planning and Development Authority, Chandigarh and Ors. 2008 (4) PLR 484, has not correctly decided and it requires reconsideration.

6. Section 2(10) of the Act. defines Conveyance to include a conveyance on sale and every instrument by which property whether movable or immovable is transferred inter vivos and which is not otherwise specifically provided for by Schedule 1 or by Schedule 1-A as the case may be. In Punjab, Sechdule 1-A defines chargeable duty in respect of instruments mentioned in Schedule 1-A. Schedule 1-A, Article 23 defines the Stamp Duty payable on conveyance amounting to sale of property. Such conveyance of sale of property is the one in respect of which Section 47-A has been inserted to deal with the malice of instruments under valued.

7. The instrument of sale is a conveyance u/s 2(10) of the Act. The words ''market value'' mentioned in amended Section 47-A means the consideration in respect of which any instrument is executed. If market value of any property is less than a minimum value determined in accordance with the Rules in terms of Section 47-A(1) of the Act, then such instrument is required to be affixed with stamp duty in terms thereof. The non use of the word consideration in Sub-section 1 of Section 47-A will not lead to an inference that Section 47-A is not applicable to the instruments of sale of the immovable property. The arguements raised by the learned Counsel jqr the petitioner is not in terms of the statute, and the intention of the legislature in enacting Section 47-A of the Act to keep a check on the under valuation of the instruments.

8. Thus, we do not find any merit in the arguments raised by the learned Counsel for the petitioner. For the reasons recorded in Sukhjit Singh Cheema''s case (supra), the present writ petition is dismissed. However, liberty is granted to the petitioner to seek his remedy against PUDA, if so advised in respect of late registration of the instrument of conveyance from an appropriate authority in accordance with law.

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