(2014) 09 P&H CK 0075

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 5172 of 2002

Sanjay Gupta and Others — APPELLANT

Vs

State of Haryana and Others — RESPONDENT

Date of Decision : 24-09-2014

Acts Referred:

Citation : (2015) 177 PLR 766

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Advocate : Prateek Gupta, Advocates for the Appellant; Kulvir Narwal, Addl. A.G, Advocates for the Respondent

Judgement

Rakesh Kumar Jain, J.—This petition is directed against the orders passed by the Collector, Narwana, dated 30.3.1999 (Annexure P-2) and the Commissioner, Hisar dated 31.3.2002 (Annexure P-3). The brief facts of the case are that Sita Devi, mother of the petitioners, executed a sale deed No. 235 in respect of the land measuring 733 sq. yds. situated in Model Town, Narwana, for a sale consideration of Rs. 1 lac. The sale deed was registered on 17.1.1996 in Delhi. The District Revenue Officer issued a notice on 6.12.1996 under Rule 4 of Haryana Stamp (Prevention of under-valuation of Instruments) Rules 1978, but after receiving the reply, he did not proceed with the notice and no further action was taken. However, another notice was issued by the Collector on 24.10.1997, Narwana to the petitioners to show-cause as to why the sale deed in their favour will not be impounded because of less valuation. The petitioners submitted their reply pointing out that the sale deed was executed by their mother in their favour but the Collector held that the valuation of the property is Rs. 7,33,000/- and therefore, the stamp duty of Rs. 1,13,615/- is liable to be affixed and called upon the petitioners to make up the deficiency. The said order was passed on the basis of the report submitted by Sub Registrar, Narwana on 14.10.1996 because of the reason that the Collector rate in respect of the land transferred was Rs. 700/- per sq. yards and after taking into consideration the cost of construction, the valuation of the area was assessed @ Rs. 7,33,000/-.

2. Aggrieved against the order of the Collector dated 30.3.1999, petitioners filed the statutory appeal under Section 47-A(4) of the Indian Stamp Act, 1899 [for short "the Act"], but it was dismissed by the Commissioner, Hisar on 31.3.2002.

3. Learned counsel for the petitioners has vehemently argued that the guidelines of the Government lying down the minimum price of land is illegal and has relied upon a Division Bench decision of this Court rendered in Chamkaur Singh and another Vs. The State of Punjab and another, . He has also argued that even according to Section 47-A(3) of the Act, as applicable to Haryana only, the Collector may, suo moto, or on the receipt of reference from the Inspector General of Registration or Registrar of a district, in whose jurisdiction the property or any portion thereof, which is the subject matter of the instrument is situated, 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 examine the instrument for the purpose of satisfying himself as to the correctness of its value or consideration as the same 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. Learned counsel for the petitioners has further submitted that the sale deed was registered on 17.1.1996 whereas the Sub Divisional Collector, Fatehabad vide his order dated 30.3.1999 found that the sale deed was worth Rs. 7,33,000/- and there was a deficiency of stamp duty/registration fee of the order of Rs. 1,11,415. It is thus, submitted by learned counsel for the petitioners that as per Section 47-A(3) of the Act, the period of limitation had already expired as the action could have been taken by the respondents upto 17.1.1999 and not after that. In support to his submission, he has relied upon a Division Bench Judgment in the case of "Vikas v. State of Haryana, 2008 (2) R.C.R. (C) 526, in which similar issue, with regard to limitation, has been decided in favour of the petitioners.

5. On the other hand, learned counsel for the respondents has submitted that the order passed by both the authorities i.e. the Collector and the Commissioner, are perfectly justified and no interference is called for.

6. I have heard learned counsel for the parties and after perusing the record, am of the considered opinion that this revision petition deserves to be allowed. The

reason for arriving at this conclusion is that as per Section 47-A of the Act, as applicable to Haryana only, respondents could have reacted to the deficiency of Stamp fee on the sale deed within a period of three years from the date of sale deed. In that case, it was executed on 17.1.1996 but the order of the Commissioner itself shows that the Sub Divisional Collector, Fatehabad vide his order dated 30.3.1999 found that the sale deed was deficient of stamp fee because the property in dispute, which was sold to the petitioners, was of much more value as per the Collector rate. The respondents could have raised this issue upto 17.1.1999 but once the limitation in that regard had expired, the said issue could not have been raised as the limitation bars the remedy though not the right. In view thereof, without adverting to the judgment relied upon by the learned counsel for the petitioners in the case of Chamkaur Singh and another (Supra), it is held that the action of the respondents in issuing notice to the petitioners asking for making up the deficiency in the stamp duty on the sale deed is time barred and therefore, the sale deed in their favour could not have been impounded. Accordingly, the present revision petition is allowed.

