(2008) 03 P&H CK 0150

In the Punjab And Haryana At Chandigarh

Sham Kumar Kohli APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 13-03-2008

Acts Referred:
Stamp Act, 1899 — Section 47A

Citation : (2008) 2 PLR 667 : (2009) 1 RCR(Civil) 212 : (2008) 105 RD 121

Hon'ble Judges : Sabina, J;M.M. Kumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—The prayer made by the petitioner in the instant petition is for quashing order dated 21,11.2007 passed by the Divisional Commissioner, Patiala Division, Patiala (P-4) upholding the view taken by the Collector (ADC) Ludhiana dated 15.2.2Q06 (P-5). The aforementioned authorities have held that the stamp duty on the sale deed has to be assessed on the rate when it is presented for registration irrespective of the fact whether the purchase was made interior to the date of the presentation. Concluding portion of the order passed by the Commissioner in para 3 reads as under:

I have gone through the grounds of appeal and have also gone through the record of the lower Court. The perusal of the order passed by Collector (ADC) Ludhiana shows that in a reference received from Sub Registrar, Ludhiana (West), the sale deed in question was impounded and the same was sent to the Collector (ADC) Ludhiana to initiate the further proceedings u/s 47-A of the Indian Stamp Act. In this case the appellant has purchased the property in question in the year 1976 but the same was presented for registration in the year 2006 after the gap of 30 years. After hearing the concerned party, the Collector had ordered to deposit the deficient stamp duty and registration fee to the tune of Rs. 1,29,290/-. I have also gone through the relevant instructions dated 22.10.2002 issued by the Government in this regard. It is clear that as per the government instruction stamp duty and registration fee on the particular document is to be calculated at the prevailing market rate at the time of presentation of the above document for registration and not at the rate at which it was purchased in the past. In view of thus, I do not find any discrepancy in the order passed by Collector (ADC) Ludhiana which is in line with the instructions issued by the Government. It is an admitted fact that the improvement Trust is a Semi-Government institution but the stamp duty and registration fee is to be calculated at the prevailing market rate and not at the rate at which it was purchased in the past. During arguments no pleading on behalf of the appellants was raised to indicate why the rate of the property in question at the time of presentation of the document for registration should not be calculated at the rate at which it has been calculated by the Collector (ADC) Ludhiana while pointing out the deficiency in stamp duty and registration fee as per the Collector rate for the above property. Thus, it is clear that there is no merit in the appeal filed. Accordingly, the appeal filed in this case is hereby dismissed as it is devoid of any merits. The concerned appellant is directed to deposit the deficient stamp duty and registration fee at the earliest.

2. After hearing the learned Counsel for the parties and perusal of the paper book we find that the matter is not res integra. The aforementioned issue came up for consideration before Hon''ble the Supreme Court in the case of State of Rajasthan v. Khandaka Jain Jewellers 2008(1) R.C.R. 91 and it has been held that the stamp duty on sale of immovable property has to be assessed on the market value at the time of registration of such sale deed and not at the time of agreement to sell nor at the time of filing of the suit because it might have taken years before it was finally disposed of therefore, we find no merit in the petition and the same is dismissed.