(2016) 02 P&H CK 0158

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 5690 of 2014

Sharmila Rani and others — APPELLANT

Vs

State of Punjab and others — RESPONDENT

Date of Decision : 29-02-2016

Acts Referred:
Stamp Act, 1899 — Section 47-A (3)

Citation : (2016) 2 LAR 4 : (2016) 3 RCRCivil 166

Hon'ble Judges : Rakesh Kumar Jain, J.

Bench : Single Bench

Advocate : Nandan Jindal, Advocate, for the Appellant; V. Ramswaroop, Addl. A.G. Punjab, for the Respondent

Final Decision : Allowed

Judgement

Rakesh Kumar Jain, J. (Oral) - This petition is filed to assail the validity of orders dated 5.2.2014 passed by respondent No.2 and dated 27.2.2013 passed by respondent No.3, whereby the petitioners have been directed to deposit a sum of RS. 83,600/- i.e. RS. 77,840/- as deficiency of the stamp duty and RS. 5,760/- as registration fee.

2. In short, the petitioners purchased a land vide Vasika No.20579 dated 29.6.2009 measuring 16.92 marlas from Surjit Singh son of Jaggar Singh, resident of Bhikhi. He received a notice dated 21.9.2012 served by the Collector (ADC), Mansa for not paying the requisite stamp duty on the aforesaid sale deed. The petitioner contested the notice but ultimately, respondent No.3 passed the impugned order, which was upheld in appeal by the Divisional Commissioner/ respondent No.2.

3. Learned counsel for the petitioner has submitted that the sale deed was executed on 29.6.2009, whereas notice was issued by the Collector (ADC), Mansa on 21.9.2012, after the expiry of 3 years and 3 months. It is submitted that if the action has been taken by the respondents under Section 47A(3) of the

Indian Stamp Act, 1899 [for short `the Act''], as applicable to the State of Punjab, the limitation to initiate proceedings is three years from the date of registration of the sale deed.

4. In support of his submission, he has relied upon a Division Bench judgment of this Court rendered in CWP No.204 of 2007 titled as "Smt. Chand Kaur and others v. State of Haryana and others" decided on 18.2.2008, in which a categoric finding has been recorded by this Court that "the period of three years is to commence from the date of registration of the document". He has further relied upon other decisions of this Court rendered in CWP No.19797 of 2010 titled as "Nirmal Singh and others v. Commissioner, Jalandhar Division and others" decided on 29.5.2012, CWP No.17840 of 2009 titled as "Rampal v. State of Punjab and others" decided on 16.8.2010 and "Iqbal Singh and others v. State of Haryana and others" 2011(3) RCR (Civil) 365.

5. The main contention of the petitioners is that since the period of three years has expired, therefore, the respondents have lost their right to initiate proceedings for recovery of any deficiency in the Stamp Duty and registration charges.

6. On the other hand, learned counsel for the State has submitted that the petitioners have played a fraud as they have not affixed the correct Stamp Duty and Registration Charges as the plot in question is a three corner plot and its price was not less than RS. 3000/- per sq. yard.

7. I have heard learned counsel for the parties and after examining the record, am of the considered opinion that the proceedings under Section 47A(3) of the Act can be initiated within a period of three years from the date of registration of sale deed and since the said period was over when the notice was issued on 21.9.2012, as the period of 3 years and 3 months had expired, therefore, the initiation of proceeding by the respondents was barred by limitation.

8. Thus, in view of the aforesaid discussion, the present petition is allowed and the impugned orders are hereby set aside.

