

(2011) 11 P&H CK 0273
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 15354 of 2011

Simarjit Kaur and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 15-11-2011

Acts Referred:

Registration Act, 1908 — Section 71

Citation : (2012) 2 ILR (P&H) 111

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Raj Kumar Gupta, for the Appellant; Kirti Singh, DAG Haryana, for Respondents Nos. 1 to 4, for the Respondent

Final Decision : Allowed

Judgement

K. Kannan, J.—The writ petition is for a direction for registering the document presented for registration and pending with the Registrar from the year 1999. The cause for non-registration is said to be that there were disputes in relation to the property and, therefore, the Registrar could not take a decision for registration. The Registrar shall not join issue on title and his function is purely administrative and not quasi judicial, except insofar as there are provisions for adjudicating on the issue of admission of execution or when there is a refusal to register by the Registering Authority and when an appeal is filed under the provisions of the Act before the Registrar. Again, there cannot be a scope for refusing to register the sale deed except as provided under Part XII of the Registration Act. Admittedly, no order has been passed by the Registrar refusing to register the document for the reasons given u/s 71 of the Registration Act. Admittedly, the document has not been returned, although, presented for execution even in the year 1999.

2. The counsel appearing for the State argues that the stamp duty shall be on the valuation as on the date of registration. This could be appropriate in cases where the document is presented for registration only now. On the other hand, if

the document had been presented even in the year 1999 and the Registering Officer did not register the instrument on account of alleged pendency of proceeding in Court, it cannot be a valid justification in the eye of law, so long as there was no order of restraint from any Civil Court from registering the documents. The Registering Officer shall, therefore, collect only the stamp duty on the valuation as determined on the day when the document was presented for registration, since when the document is said to be still in the custody of the respondents, register the document and return the document within a period not exceeding 4 weeks. The writ petition is allowed with the above directions.