(2014) 07 P&H CK 0331

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 18873 of 2013 (O and M)

Surjit Singh APPELLANT

Vs

State of Punjab RESPONDENT

Date of Decision : 25-07-2014

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Stamp Act, 1899 — Section 47a

Citation : (2014) 176 PLR 754 : (2015) 3 RCR(Civil) 505

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Aayush Gupta, Advocate for the Appellant; Vandana Malhotra, Addl. A.G, Advocate for the Respondent

Judgement

Ritu Bahri, J.—Petitioner has approached this Court by way of instant writ petition filed under Article 226/ 227 of the Constitution of India, seeking a writ in the nature of certiorari for quashing the order dated 22.08.2012 (P-4) passed by respondent No. 2 and order dated 14.03.2013 passed by respondent No. 3 (P-7). Flower Dale Co-operative House Building Society Ltd, Barwala Road, Ludhiana had given an advertisement in the Tribune Newspaper on 9.5.1997 for auction of residential plot in Flower Dale Co-operative House Building Society Ltd. and the petitioner was declared highest bidder of the plot No. 14-C measuring 500 sq. yards on 25.05.1997 for Rs. 4,00,000/-. The petitioner has got registered the sale deed No. 9687 dated 16.09.2011. However, the collector has impounded the said sale deed and on the basis of the report of the Tehsildar, Ludhiana, he assessed the value of the land at Rs. 4,900/- per sq yards and thus, imposed the deficient stamp duty of Rs. 2,44,500/-, vide order dated 22.08.2012 (P-4).

2. On appeal filed by the petitioner, order dated 22.08.2012 was affirmed by Divisional Commissioner, Patiala Divn, Patiala, vide order dated 14.03.2013 on the ground that the petitioner had led no evidence to proof that he had purchased the said plot in auction. Nor he has produced any proof of final total

payment made.

3. Reference at this stage can be made to certificate of ownership issued by the Society (P-3) to the petitioner that he is a bonafide member of Society and is owner of plot No. 14-C, measuring 500 sq yards, registered at Membership Ref. No. 113 with dimensions 80.5 x 56''. The value of the plot No. 14-C was Rs. 4 lakhs on 19.12.1997. The receipt dated 26.05.1997 of the earnest money i.e. Rs. 25,000/- deposited by the petitioner is Annexure P-1. This amount was paid, for the plot No. 14-C, measuring 500 sq yards for the residential purpose in the auction held on 25.05.1997. Moreover, as per notification dated 08.03.2011 (P-6), Rule 3(B) has been added by which the rate fixed for allotment at the fixed price or at the price accepted after public auction of an immovable property by the Government or a Public Sector undertaking or a local body, shall be deemed to be Collector rate as fixed under Rule 3A of such property.

4. On notice, a reply has been filed on behalf of respondent Nos. 1 to 4 and have stated that certain relaxation were granted by Punjab Govt. vide letter dated 28.05.2009, 18.09.2009 and 30.09.2011. Notification dated 30.09.2011 is prospective in nature and the same are is applicable in the present case. Since the sale deed of the petitioner was registered on 16.09.2011, the petitioner could not get any benefit from the same. Moreover, as per Division Bench of this Court in a case of Sukhjeet Singh Cheema, Advocate v. PUDA, Chandigarh and others, 2009(1) R.C.R. (Civil) 337 (R-1), the relevant date for assessing the market value of the property would be the date of registration and the Collector rate at that point of time would be applicable for assessing the market value/stamp duty of the property. The petition was dismissed by this Court and it was held that stamp duty is payable on the market value of the property on the date of registration of the instrument and not as per sale consideration recited in the letter of allotment.

5. Learned counsel for the petitioner has referred judgment passed by a Co-ordinate Bench of this Court in a case of Ram Lakhan and another v. State of Punjab and others, passed in CWP No. 24435 of 2011, decided on 27.11.2012. The writ petition was allowed wherein the issue involved is that the property purchased in public auction, or a property purchased on the rates prescribed by the Government through its agencies, is to be assessed for the purpose of registration under the Indian Stamp Act as per the rates prescribed by the State Agency, or the auction amount or the rates prescribed by the Collector on the basis of market value. It has been held as under:-

"On due consideration of the matter, I am of the opinion that the controversy is no longer res integra. The respondents themselves have issued the notification stating that where the property has been allotted or purchased in public auction conducted by the Government or a Public Sector Undertaking or a local body, the price fixed for such allotment or auction shall be deemed to be the Collector''s rate and the evaluation for the purpose of registration necessarily has to be made on the basis of such determined price."

6. The notification dated 08.03.2011 has came up for consideration before this Court in Mohali Club Mohali through its President Kuldeep Singh son of Shri Roshan Singh v. State of Punjab and others, passed in CWP No. 6387 of 2009 on 06.05.2010 wherein this Court had an occasion to examine the matter of stamp duty on a plot allotted by the Government/Semi Government Organization while extending the benefit of notifications issued by State of Punjab. The writ petition was allowed and it was held that excessive stamp duty cannot be levied beyond the price paid by the purchaser at the fixed price by the government at the time of allotment of plot.

7. Similarly a Division Bench of this Court in a case of State of Punjab and others v. Purshotam Das and another, passed in LPA No. 890 of 2010, decided on 02.08.2010 has dismissed the writ petition of the State and held that the provisions of Section 47-a of the Indian Stamp Act will not be attracted in a case where the property had been purchased through public auction conducted by the State authorities. Keeping in view of the facts mentioned above and applying the ratio of the above said judgment, order dated 22.08.2012 (P-4) passed by respondent No. 2 and order dated 14.03.2013 passed by respondent No. 3 (P-7) are set aside. The respondents are directed to register the sale deed of the petitioner on the amount indicated in the auction proceedings.

The writ petition is allowed.

