(2009) 11 P&H CK 0077

In the Punjab And Haryana At Chandigarh

Vardhman Textile Ltd. APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 18-11-2009

Acts Referred:
Stamp Act, 1899 — Section 47A

Citation : (2010) 157 PLR 320 : (2010) 5 RCR(Civil) 605

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Kanwaljit Singh Ahluwalia, J.—Petitioner-company purchased 20 marlas (1 kanal) plot bearing No. 394 situated in Scheme No. 10, Town Improvement Trust, Urban Estate, Premgarh, from the Improvement Trust, Hoshiarpur. The consideration paid by the petitioner-company was Rs. 37,500/-. Taking this as a base value, sale deed was registered and petitioner had paid stamp duty. Thereafter, a reference was made by the Sub Registrar that Audit Team has raised an objection that sale deed was not registered in consonance with circle rate and the same was undervalued, as there was deficiency in the payment of stamp fee. In the reference made, Sub Registrar stated that at the time of registration, Collector has drawn a Schedule and fixed the rate and the stamp duty paid was not according to the prevailing Collector rate. Petitioner has made a grievance before the Collector and the Appellate Authority that he had affixed the stamp duty and reflected the consideration as per the allotment price and, therefore, the Collector rate cannot be taken into consideration. A Division Bench of this Court, to which I was party, in Sukhjit Singh Cheema v. Punjab Urban Planning and Development Authority, Chandigarh and Ors. 2009 (1) RCR 337 held as under:

Though the sale consideration mentioned in the letter of allotment or such like document cannot be disputed but what would be proper stamp duty is required to be determined in terms of Section 47-A of the Act which contemplates that it is the market value of the property on the date of registration of the instrument. Therefore, irrespective of sale consideration in the letter of allotment, stamp duty would be payable on the market value of the property determined in terms of Rule 3-A of 1983 Rules prevalent at the time of registration of instrument.

2. Mr. Handa appearing for the petitioner has further stated that the reference was to be made by the Sub Registrar at the time of registration and later reference is not to be made on the basis of audit objection. This matter was also dealt with by a Division Bench of this Court in Sukhjit Singh Cheema''s case (supra) and held as under:

As per amended Section 47-A(l) of the Act, the Registering Officer can make reference to the Collector for determination of the market value if market value is less than the minimum value as determined in accordance with the Rules made under the Act. In exercise of such powers, the State Government have introduced Rule 3-A in 1983 Rules under which the Collector has to determine the collector rate in consultation with the Committee of experts in respect of the market value of the land/properties, located in his district, locality wise and category wise.

We have heard counsel for the parties at length. The judgments referred to by the learned Counsel for the petitioners are the cases which arise before the insertion of Section 47-A(l) of the Act and Rule 3-A of 1983 Rules. In Chamkaur Singh''s case (supra), this Court has held that the guidelines could neither be issued u/s 47-A of the Act nor these are in consonance with the same, rather these just run counter to the language and intendment of the said provisions. It was held to the following effect:

...We are, therefore, clearly of the opinion that these so called guidelines could neither be issued u/s 47- A of the Stamp Act nor are these in consonance with the same, rather these just run counter to the language and intendment of the said provisions. We are further of the opinion that no guidelines can possibly be issued or laid down for controlling the quasi-judicial decision of a particular functionary or authority under a particular statute.

3. Lastly, Mr. Handa has submitted that on 28.5.2009, the Government of Punjab had issued a notification wherein it was stated that those properties which have been allotted by the Government Organizations, ''stamp duty is payable on the price at which allotment was made or the property was sold. This matter was considered by learned Single Judge of this Court in M/s Ralla Ram Ram Lal v. State of Punjab and Ors. (Civil Writ Petition No. 6344 of 2007 (O&M) decided on 18.9.2009 and held as under:

Contention of counsel for the petitioner, that amendment in the Rules is retrospective, is not coming out from the records. A reading of the explanation/ amendment clearly indicates that it was added for a specific period. In the notification dated 28.5.2009, it is specifically stated that the earlier explanation shall be deemed to have been substituted w.e.f. 2.3.2009 and under the explanation added by the notification, the relief was granted only upto 2.9.2009. Intention of the rule framing authorities is very clear that the rule was extended only for a limited period. In view of facts of this case, ratio of the judgment in the case of Zile Singh (supra), will not be of any help to the petitioner. No case is made out for interference. Dismissed.

4. All the pleas raised by Mr. Handa stand determined in Sukhjit Singh Cheema''s case (supra) and M/s Ralla Ram Ram Lal''s case (supra).

5. At this stage, counsel for the petitioner has relied upon V.N. Devadoss v. Chief Revenue Control Officer-cum-Ins. and Ors. 2009(3) Recent Civil Reports 496 to contend that where a property was sold in an auction by the Board for Industrial and Financial Reconstruction, the stand of the State that the Collector rates shall prevail and the actual price was not accepted. That case pertain to State of Tamil Nadu. State of Punjab has carried an amendment to Section 47A. The wording of Section produced in the judgment rendered in V.N. Devadoss''s case (supra) and prevailing Section in the State of Punjab are entirely different. The amendment was made in the provision and it was held therein that Collector rate is to prevail irrespective of the market value. This amendment was considered in Sukhjit Singh Cheema''s case (supra) and M/s Ralla Ram Ram Lal''s case (supra).

Therefore, on the facts of the case judgment rendered in V.N. Devadoss''s case (supra) is not attracted and petitioner cannot draw any support from it. Hence, there is no merit in the present writ petition and the same is dismissed.

