(2013) 02 P&H CK 0070

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 22350 of 2010

Veena Rani — APPELLANT

Vs

State of Haryana and Others — RESPONDENT

Date of Decision : 19-02-2013

Acts Referred:
Stamp Act, 1899 — Section 47A

Citation : (2013) 2 RCR(Civil) 993

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : Anurag Jain, for the Appellant; Tanisha Peshawaria, DAG, Haryana, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Narain Raina, J.—Ms. Tanisha Peshawaria, DAG, Haryana appearing for the respondent-State has reported compliance of the order dated 15.10.2012 passed by this Court imposing costs of Rs. 10,000/-. The costs stand paid vide treasury receipt No. 79 dated 29.01.2013. Having heard the learned counsel for the parties, this matter is remanded to the Collector, Hisar to pass a fresh order u/s 47-A of the Indian Stamp Act. 1899 (for short "the Act") to redetermine the market value or consideration and the duty payable on sale of SCO No. 144, Commercial Urban Estate-I, Hisar of a plot measuring 115 square yards. The shop has been purchased by the petitioner from vendor Hari Nath Mehta son of Sh. Bhagwan Dass, R/o. Village Kharkera, Sub Tehsil Barwala, District Hisar. Agreement to sell between the parties was executed on 10.12.2004. The date of the sale deed is 02.03.2007. The price worked out by the Collector for the SCO No. 144, Commercial Urban Estate-I, Hisar of a plot measuring 115 square yards was Rs. 30,45,500/- whereas the sale deed was sought to be registered at Rs. 4 lacs. A deficiency of stamp duty in a sum of Rs. 1,58,730/- and Rs. 14,000/- on account of registration fees has been found due and payable on account of undervaluation. The Collector''s order has been upheld in appeal. These orders have been impugned in this petition.

2. The authorities below have gone exclusively by Collector rates to determine market value of property for the locality in question. The authorities below have determined the land in dispute at Rs. 16,000/- per square yard without making any enquiry u/s 47-A of the Act. The price has to be determined on the date when the papers were submitted for registering the sale deed in March 2007. It is not disputed that the property in question falls at serial No. 182 of the proposed rates of land/plots issued by the Collector within the municipal limits of Hisar for the year 2004-05 in the locality called Red Square Market Old Jail. The previous rate has been recorded at Rs. 13,000/- and the proposed rate at Rs. 16,000/- per square yard.

3. It is the case of the petitioner that collector rates alone are not determinative of market value of land. He submits that sub-Section 2 of Section 47-A of the Act read with Rule 5(1) of the Haryana and Stamp (Prevention of Undervaluation of Instruments) Rules, 1978 imposes a mandatory duty on the Collector to hold an enquiry in the manner prescribed by the rules and also give reasonable opportunity to the parties before making determination of the value of the land. A vendee has a right to ask for opportunity to lead evidence in rebuttal to the evidence collected by the authority against him. If the determination is made contrary to the procedure established by law, the order cannot be sustained as it would be arbitrary and against the rule of law. He relies on a Division Bench decision of this Court rendered in Naresh Kumar Vs. State of Haryana and Others, to urge that collector rates may be used only as prima facie material to alert the authority regarding the value of land but it cannot in itself with the sole determining factor-plus or minus, and an independent enquiry is required to be held. The orders passed by the Collector must satisfy the tests of orders of a quasi judicial authority, where such orders are subject to judicial review by the High Court for the Court to know reasons on the basis of which conclusions have been recorded.

4. The Commissioner, Hisar in appeal has blindly affirmed the order of Collector on notions. The only reason assigned for determining market value forthcoming from the impugned order is the bald assertion that the property in question is located at Urban Estate, Hisar where all modern facilities and amenities are available. That may be good but not sufficient reason to hold so. Extra inputs are required to conform to quasi judicial parameters required for decision making under the Act and the rules, 1978. The argument of the learned counsel for the petitioner that the Department did not produce any evidence by holding enquiry for reaching at the finding of undervaluation has been noticed but not dealt with in the impugned orders.

5. Therefore, in view of the dictum of law enunciated in Naresh Kumar''s case (supra), both the impugned orders dated 26.02.2010 (P-6) and 03.08.2010 (P-8) cannot be sustained. For the reasons aforestated, both the impugned orders dated 26.02.2010 (P-6) and 03.08.2010 (P-8) are set aside. The matter is

remitted to the Collector, Hisar and a direction is issued that on remand, the Collector, Hisar would decide the matter afresh after applying the principles of law laid down in the aforesaid decision and after following the procedure established by law.

The writ petition stands disposed of accordingly. Petition dismissed.

