

2. The instant writ petition has been filed challenging the impugned order dated 04.11.2020 passed by the respondent no. 2 in Case No. 03364/2019 as well as the impugned order dated 08.02.2021 passed by the respondent no. 3 in Appeal No. 00018/2021.

3. Learned counsel for the petitioner submits that vide sale deed dated 25.07.2019, the petitioner purchased residential plot in question after paying requisite stamp duty. He further submits that the big chunk of the land was divided in small plots, which was duly approved by the Saharanpur Development Authority. Thereafter, the Deputy Registrar, Saharanpur submitted a report with regard to deficiency of stamp duty, pursuant to which proceedings under section 47-A of the Indian Stamp Act were initiated against the petitioner and a notice was issued, to which the petitioner submitted his reply. Thereafter, the respondent no. 2, vide impugned order dated 04.11.2020, imposed deficiency of stamp duty, together with interest and penalty. Aggrieved by the said order, the petitioner preferred appeal, which has been dismissed vide impugned order dated 08.02.2021. Hence, this writ petition.

4. Learned counsel for the petitioner further submits that the impugned order has been passed without considering the case of the petitioner that the plot in question is situated at 9 meters wide road, but the same has been passed treating the plot to be on main road. He further submits that the Deputy Registrar has submitted its report without there being any spot inspection of the plot in question. He further submits that before passing the impugned order, the Collector has neither made any spot inspection, nor called for a report.

5. He further submits that since the big chunk of the land has been sub-divided showing a common passage of 9 meters and the plot of the petitioner situated against 9 meters road, it was incorrect on the part of the respondents authorities to hold that the plot of

the petitioner is situated on the main road. He refers to the sale deed (Annexure No.1 to the writ petition), where this fact is specifically mentioned at internal page no. 3. When the proceedings were initiated against the petitioner, in his reply, the petitioner has taken a specific ground, but though the said fact was noticed in the impugned order, but no weightage was given. In appeal also, the said fact was mentioned in ground no. 12, but no finding was recorded to that effect. He prays for allowing the writ petition.

6. Per contra, learned ACSC supports the impugned order and submits that the land in question was a big chunk of land, which is situated on the main road and therefore, the proceedings have rightly been initiated against the petitioner. He further submits that once the plots have been divided, the purchasers will not escape from their liability of payment of due stamp duty to the State.

7. After hearing learned counsel for the parties, the Court has perused the records.

8. It is not in dispute that the plot in question was a big chunk of land, in which 37 plots were sub-divided and exit of the colony joins the main road, i.e., Bhagat Singh Marg. The record further reveals that the authorities have lost sight of the fact that the colony or sub-division of plots have duly been approved by the Development Authority. Once the sub-division and the common road has been approved by the Development Authority, the inference drawn that the plot in question of the petitioner situated at main road has no legs to stand on.

9. The map of sub-division, which is duly approved by the Development Authority has been annexed as Annexure No. 2 to the writ petition. Plot no. 24 has been purchased by the petitioner, which is

not on the main road, but prior to it, plot nos. 21, 22 & 23 exist and thereafter, the plot of the petitioner is there. In front of the plot, there is 9 meters wide road, which is duly approved by the Development Authority. Once a colony is approved by the Development Authority, it goes without saying that the road thereof has also been approved, which is to be maintained by the Development Authority thereafter. Merely because the road of the colony joins the main road, as stated above, will not entitle the authorities to charge the deficiency of stamp duty on the petitioner as compared to the first plot, which is adjacent to the main road.

10. In view of the peculiar facts & circumstances of the case as noted above, the impugned orders passed in these writ petition cannot be sustained in the eyes of law. The matters require reconsideration.

11. For the said purpose, the impugned orders passed by the authorities below in the writ petition are hereby quashed.

12. The writ petition is, accordingly, allowed.

13. The matter is remanded back to the Collector (Stamps)/ Assistant Commissioner of Stamps, Saharanpur, i.e., the respondent no. 2, for deciding the issue de novo after granting due opportunity of hearing to all the stake holders, expeditiously, preferably, within a period of three months from the date of production of a certified copy of this order.

14. It is made clear that any amount already deposited by the petitioners shall be subject to the outcome of the order passed by the respondent no. 2.

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