



**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH**

207

**CWP-8912-2021 (O&M)**  
**Date of Decision: 17.02.2025**

**MEWA SINGH**

.....Petitioner

Versus

**STATE OF PUNJAB AND OTHERS**

.....Respondents

**CORAM: HON'BLE MS. JUSTICE LAPITA BANERJI**

Present:- Mr. Prabhjot S. Waraich, Advocate, for  
Dr. Khushbir K. Waraich, Advocate,  
for the petitioner.

Mr. Brijesh, AAG, Punjab.

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**LAPITA BANERJI, J.(Oral)**

1. In the present writ petition challenge is thrown to the order dated September 14, 2017 (Annexure P-9) passed by the District Collector, Barnala and the order dated October 15, 2019 (Annexure P-10) passed by the Divisional Commissioner, Patiala, District Patiala.

2. Learned counsel appearing on behalf of the petitioner submits that the land ad-measuring 01 Kanal 13 Marlas having Khewat, Khatoni or Khasra Number:- Share 33/898 vide 1 Kanal 13 Marlas out of land measuring 44K-18M comprised in Khata No.59/86 to 89, Khasra No.421//9/8-0, 422//17/2/0-8, 421//2/7-7, 12 min/0-10, 438//1/0-4, 2/0-9, 439//2/4-2, 421//12 min/7-10, 422/17/2 min /5-0, 21/2/3-8, 22/8-0 kitte 11 situate at Barnala (C), Tehsil and District Barnala was purchased by the

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petitioner. The petitioner paid Rs.4,12,500/- as consideration amount and also paid stamp duty of Rs.33,000/- on the same. The District Revenue Officer (DRO), Barnala had certified the said land to be “*agricultural*” as it was found on spot inspection that crops were sown on the land. The DROs written communication to the District Collector is dated September 16, 2016 (Annexure P-5).

3. The said inspection was done during the pendency of the proceedings under Section 47(A) of Indian Stamp Act for recovery of additional stamp duty by the District Collector. Such proceedings were instituted on March 27, 2014. Vide order dated February 16, 2017 the District Collector-respondent No.3 recorded that after perusal of the reports dated January 23, 2016 submitted by the Divisional Magistrate, Barnala and the report dated September 16, 2016 by the DRO, an order was being passed for recovery of additional stamp duty to the tune of Rs. 1,25,400/-, registration fees to the tune of Rs.15,675/- i.e. (total) Rs.1,41,075/- from the petitioner. The District Collector sought to rely on the earlier Report of the SDM without considering the later report of the DRO, who admittedly is a higher official. The said order was challenged before the Divisional Commissioner, Patiala – respondent No.2. The impugned order dated February 16, 2017 was set aside vide order dated April 26, 2017 (Annexure P-7) passed by the respondent No.2. The District Collector was directed to hear the case of the appellant again by giving him an opportunity of hearing.

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4. The District Collector, vide the second impugned order dated September 14, 2017 again passed the same order as the first impugned order dated February 16, 2017. No reason has been given in the second order dated September 14, 2017 as to why the report of the SDM was relied upon as against the report of the DRO, who admittedly is a superior officer.

5. In both the impugned orders the report of the DRO had be bypassed. From the order passed by the respondent No.3 on September 14, 2017, an appeal was preferred before respondent No.2. Vide impugned order dated October 15, 2019 the respondent No.2 held that the appellant presented the sale deed for registration by citing the segment code No.8 whereas segment code No.9 which was the correct segment was not mentioned. The appellant's land falls under "residential" category and the appellant has not been able to explain why the total value of the land was shown to be Rs.4,12,500/- whereas, as per code No.9 the total value of the land should have been Rs.19,80,000/-.

6. The respondent No.2 held that the Sub-Registrar was well within rights to impound the document. The report of SDM, Barnala clearly showed that the land was "*gair mumkin*" land and "residential" in nature and the order passed by the Collector was well-reasoned one and suffering from no illegality (procedural or otherwise). Therefore, the appeal was dismissed, being devoid of merit.

7. Learned counsel appearing on behalf of the petitioner submits that the impugned order suffers from procedural impropriety and non-application of mind since the report of the DRO was not considered.

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8. Learned State counsel submits that the petitioner has deliberately mentioned a wrong segment code and thereby tried to evade the correct stamp duty.

9. This Court has heard the rival submissions of the parties and perused the material on record.

10. The facts of the present writ petition are noted hereinabove. After consideration of the facts, it is of the opinion that no explanation whatsoever has been given as to why the report of the DRO, who was a higher official was not taken into consideration while adjudicating the market value of the land in question. The first impugned order dated February 16, 2017 was set aside by the respondent No.2 taking into consideration the fact that the petitioner had pleaded the land to be an “agricultural” one. In the second impugned order dated September 14, 2017 why the Collector did not take into account the submissions of the petitioner being corroborated by the Report of the DRO is beyond the comprehension of this Court.

11. To the mind of this Court, the report of the DRO was a relevant material which had to be considered in the decision making process. In judicial review, the Court has to consider the propriety of the decision making process and not the decision itself. A beneficial reference is made to *Special Leave Petition No.30370 of 2017* in ***Sushil Kumar Vs. State of Haryana and Ors.*** reported in 2022(3) SCC 203.

12. This Court hold, that the report of the DRO was indeed a relevant material that should have been considered in the decision making

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process of the impugned orders dated September 14, 2017 and October 15, 2019. The issue with regard to the code number being wrong has been raised for the first time by the Divisional Commissioner holding the land not to be an “agricultural” one. The petitioner-appellant’s entire case is based on the fact that the land question is an “*agricultural*” one and not a “*residential*” one. Therefore, there was no reason for the petitioner to mention Code No.9 instead of Code No.8.

13. In the light of the aforesaid discussions, impugned orders dated October 15, 2019 (Annexure P-10) and September 14, 2017(Annexure P-9) are hereby set aside.

14. The Sub-Registrar is directed to hand-over the impounded documents to the petitioner within 01 month from the date of this order. However, this order will not preclude the authorities concerned to take any step, in accordance with law.

15. Accordingly, **CWP-8912-2021** is **allowed**.

16. Connected application(s), if any, are accordingly disposed of.

**17.02.2025***Jyoti Thakur***(LAPITA BANERJI)  
JUDGE**

*Whether speaking/reasoned:*  
*Whether reportable:*

*Yes/No*  
*Yes/No*